S. Hrg. 102-226, Pt. 1

# DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES APPROPRIATIONS FOR FISCAL YEAR 1992

---

## HEARINGS

BEFORE A

SUBCOMMITTEE OF THE

COMMITTEE ON APPROPRIATIONS

UNITED STATES SENATE

ONE HUNDRED SECOND CONGRESS

FIRST SESSION

Part 1 (Pages 1-723)

ACTION
Corporation for Public Broadcasting
Department of Education
Department of Labor
Federal Mediation and Conciliation Service
Federal Mine Safety and Health Review Commission
National Commission on Acquired Immune Deficiency Syndrome
National Commission on Libraries and Information Science
National Commission to Prevent Infant Mortality
National Labor Relations Board
National Mediation Board
Occupational Safety and Health Review Commission
Physician Payment Review Commission
Prospective Payment Review Commission
Railroad Retirement Board
U.S. Institute of Peace
U.S. Naval Home
U.S. Soldiers' and Airmen's Home

Printed for the use of the Committee on Appropriations

U.S. GOVERNMENT PRINTING OFFICE
38-710 ⇆ WASHINGTON : 1991

For sale by the U.S. Government Printing Office
Superintendent of Documents, Congressional Sales Office, Washington, DC 20402
ISBN 0-16-035722-5

5181-47

## COMMITTEE ON APPROPRIATIONS

ROBERT C. BYRD, West Virginia, *Chairman*

DANIEL K. INOUYE, Hawaii
ERNEST F. HOLLINGS, South Carolina
J. BENNETT JOHNSTON, Louisiana
QUENTIN N. BURDICK, North Dakota
PATRICK J. LEAHY, Vermont
JIM SASSER, Tennessee
DENNIS DECONCINI, Arizona
DALE BUMPERS, Arkansas
FRANK R. LAUTENBERG, New Jersey
TOM HARKIN, Iowa
BARBARA A. MIKULSKI, Maryland
HARRY REID, Nevada
BROCK ADAMS, Washington
WYCHE FOWLER, JR., Georgia
J. ROBERT KERREY, Nebraska

MARK O. HATFIELD, Oregon
TED STEVENS, Alaska
JAKE GARN, Utah
THAD COCHRAN, Mississippi
ROBERT W. KASTEN, JR., Wisconsin
ALFONSE M. D'AMATO, New York
WARREN RUDMAN, New Hampshire
ARLEN SPECTER, Pennsylvania
PETE V. DOMENICI, New Mexico
DON NICKLES, Oklahoma
PHIL GRAMM, Texas
CHRISTOPHER S. BOND, Missouri
SLADE GORTON, Washington

JAMES H. ENGLISH, *Staff Director*
MARY S. DEWALD, *Chief Clerk*
J. KEITH KENNEDY, *Minority Staff Director*

---

## SUBCOMMITTEE ON DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES

TOM HARKIN, Iowa, *Chairman*

ROBERT C. BYRD, West Virginia
ERNEST F. HOLLINGS, South Carolina
QUENTIN N. BURDICK, North Dakota
DANIEL K. INOUYE, Hawaii
DALE BUMPERS, Arkansas
HARRY REID, Nevada
BROCK ADAMS, Washington

ARLEN SPECTER, Pennsylvania
MARK O. HATFIELD, Oregon
TED STEVENS, Alaska
WARREN RUDMAN, New Hampshire
THAD COCHRAN, Mississippi
PHIL GRAMM, Texas
SLADE GORTON, Washington

*Majority Professional Staff*
J. MICHAEL HALL, JAMES J. SOURWINE, CAROL C. MITCHELL, AMY SCHULTZ, and MARGARET STEWART

*Minority Professional Staff*
BETTILOU TAYLOR and CRAIG A. HIGGINS

*Administrative Support*
GLADYS CLEARWATERS and SUSAN A. MCGOVERN

# CONTENTS

## TUESDAY, MARCH 5, 1991

Page
Department of Labor:
  Secretary of Labor ..... 1
  Office of Inspector General ..... 103

## TUESDAY, MARCH 19, 1991

Department of Education:
  Special Institutions:
    Howard University ..... 125
    Gallaudet University ..... 130
    National Technical Institute for the Deaf ..... 134
    American Printing House for the Blind ..... 141

## THURSDAY, MARCH 21, 1991

ACTION ..... 207
Federal Mediation and Conciliation Service ..... 241
National Mediation Board ..... 249
Railroad Retirement Board ..... 261
National Labor Relations Board ..... 291
  Office of Inspector General ..... 335
Federal Mine Safety and Health Review Commission ..... 349
Occupational Safety and Health Review Commission ..... 355
U.S. Naval Home ..... 361
National Commission to Prevent Infant Mortality ..... 375
Physician Payment Review Commission ..... 389
Corporation for Public Broadcasting ..... 405
National Commission on Libraries and Information Science ..... 465
U.S. Institute of Peace ..... 497
National Commission on Acquired Immune Deficiency Syndrome ..... 525
Prospective Payment Review Commission ..... 535
U.S. Soldiers' and Airmen's Home ..... 547

## THURSDAY, APRIL 25, 1991

Department of Education: Secretary of Education ..... 557

# DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES APPROPRIATIONS FOR FISCAL YEAR 1992

---

TUESDAY, MARCH 5, 1991

U.S. Senate,
Subcommittee of the Committee on Appropriations,
*Washington, DC.*

The subcommittee met at 10:33 a.m., in room SD-192, Dirksen Senate Office Building, Hon. Tom Harkin (chairman) presiding.

Present: Senators Harkin, Burdick, Bumpers, Specter, Hatfield, and Gorton.

## DEPARTMENT OF LABOR

### Office of the Secretary

### STATEMENT OF HON. LYNN MARTIN, SECRETARY OF LABOR

ACCOMPANIED BY:
- ROBERTS T. JONES, ASSISTANT SECRETARY FOR EMPLOYMENT AND TRAINING
- THOMAS C. KOMAREK, ASSISTANT SECRETARY FOR ADMINISTRATION AND MANAGEMENT
- JAMES E. McMULLEN, DIRECTOR, OFFICE OF BUDGET

### OPENING REMARKS OF SENATOR HARKIN

Senator Harkin. Good morning, the Subcommittee on Labor, Health, Human Services, and Education, and Related Agencies will come to order. This morning we have the great pleasure to hear from our new Secretary of Labor, my former colleague in the House, Secretary Lynn Martin, the 21st Secretary of the U.S. Department of Labor.

Secretary Martin, I note that your nomination was confirmed last month by the Senate unanimously. And you obviously start your job with a great deal of goodwill. As a member of both the Appropriations and Authorizing Committees with jurisdiction over Labor Department programs, I certainly look forward to working with you as we have worked together in the past when we were both colleagues in the other body, as we say. I am sure that I speak for all the members of the subcommittee not only in welcoming you this morning, but also ensuring you of a very positive working relationship throughout the year.

Madam Secretary, the Labor Department has wide ranging responsibilities in the area of unemployment, support, in job training and placement services, workers' safety and health, protection of pension and welfare plans, black lung, and workers compensation. Its regulatory and enforcement activities touch the lives of all Americans. You have assumed an important job, and we urge you to pursue it with vigor.

Today, I would like to focus attention on what is happening in the American work force with particular emphasis on the urgent problems being created by the economic recession; 1 million people have lost their jobs in the last year, and unemployment is still rising at an accelerating rate. We hope the recession will be over quickly, but in the meantime, we cannot ignore the stark reality of long lines in unemployment offices and desperate people waiting up to 6 weeks to get their unemployment checks.

I might just note, I do not have it here in my remarks, but yesterday I was informed that the unemployment rate in Iowa went up 1 percent last month; 1 percent. For us that is 20 percent, from 4 percent to a little over 5 percent.

You have asked for a $100 million supplemental to speed up the processing of unemployment claims, and I commend you for that. Yet I understand the Labor Department now estimates a shortfall of $201 million. In the upcoming supplemental, we will address the funding need as fully as possible. Our concerns also must go beyond the immediate need to cushion the impact of joblessness. We need to look at the whole picture of worker dislocation, and how our programs can help those facing long-term unemployment.

Unfortunately the President's budget request seeks a retrenchment in worker readjustment assistance at a time when the need is greater than ever. There are an estimated 4.2 million people who have lost their jobs due to plant closings and mass layoffs in the last 5 years, yet only a small fraction are being retrained.

Madam Secretary, there are other long-range problems that are just as real and just as urgent. According to a recent study, "America's Choice: High Skills or Low Wages," produced by a committee cochaired by former Secretary of Labor, Bill Brock, and Ray Marshall, average weekly earnings in the United States have fallen 12 percent since 1969. One-third of our front line work force is made up of school dropouts.

American employers invest less in worker training than most industrialized societies in the world. And 92 percent of the Nation's workers receive no formal training once they are on the job. This study proclaims that America may have the worst school-to-work transition system of any advanced industrial country resulting in millions of our youth drifting unproductively for years after leaving high school.

An estimated 70 percent of our future work force will not require a college education. And failure to address the needs of these workers could severely damage our Nation's competitiveness in world markets. The study warns that unless we take action and become a nation of high skills, we risk further declines in wages for the majority of our workers.

Madam Secretary, I know you are concerned, as we all are, about these problems. This morning's hearing will permit us to discuss these problems and also to hear about your Department's funding requirements for fiscal year 1992.

## PREPARED STATEMENT OF SENATOR ADAMS

Before we get into that, I would yield to the ranking member of the subcommittee, Senator Specter of Pennsylvania and other members of the subcommittee for any opening statement that they may wish to make.

[The statement follows:]

### STATEMENT OF SENATOR BROCK ADAMS

I would like to welcome Secretary Martin. It's a pleasure to have you with us today. I regret that I must raise an issue with you that you have inherited.

As a Chair of the Subcommittee on Aging of the Labor and Human Resources Committee, I am very disturbed by the substantial funding cuts in the employment programs for older Americans which President Bush's budget proposes.

The President's budget calls for a more than 12 percent reduction in the Senior Community Service Employment Program (SCSEP) which is authorized by Title V of the Older Americans Act (OAA). This is the only OAA program categorically for low-income seniors.

For fiscal year 1991, Congress appropriated $390.36 million for the program, and the Administration proposes to reduce the funding to $342.814 million in fiscal year 1992. This would mean 7,805 fewer positions in the program nationally, from 64,405 jobs to 56,600. The State of Washington, my home state, will lose 131 positions (from 926 positions in program year 1991 to 795 positions in program year 1992). The notion of a "kinder and gentler nation" rings hollow when a program which provides part-time job opportunities for low-income individuals aged 55 and older is slated for such a substantial cut. The program currently provides employment for only about 1 percent of eligible low-income individuals. Why would we want to reduce that even further?

The proposed funding cut follows a recent reduction of 525 job slots (from 64,930 to 64,405) due to the increase in the Federal minimum wage in April 1991.

The Senior Community Service Employment Program is a very visible and successful program of the OAA. It authorizes enrollees to work in a wide array of community service jobs benefiting the general community. These jobs include social, health, welfare, and educational services.

A recent study supported by Families USA shows that the Senior Employment Program is vital to income security and the well-being of minority and low-income elders. The study, Part-time Employment for the Lower Income Elderly, provides strong support for the Title V program. The study concludes that the elders who seek employment through the Title V program are persons whose retirement incomes alone are not sufficient to lift them above the poverty threshold. Not only do the Title V jobs provide a crucial supplement to limited income for older individuals, but they also provide a crucial means to remain socially connected. For low-income elders, both economic and social needs are partially met through Title V employment.

I am also disturbed by the lack of funding for another program which assists older Americans. That is the Job Training Partnership Act (JTPA). Older workers—55 years and older—are eligible for training under Title IIA and Title III of the JTPA. According to the President's budget, the block grants authorized by Title II are maintained at $1,744.808 million. Consequently, no increases for cost of living were made for 1992. Although the President's budget proposes an increase of $12.385 million (from $514.601 million for fiscal year 1991 to $526.986 for fiscal year 1992) for Dislocated Worker Assistance (Title III), this increase will be largely offset if the Trade Act adjustment assistance program for dislocated workers is repealed as President Bush also proposes.

These proposed cuts in the programs which affect older Americans come at a time when our country is in a recession and many companies are downsizing and laying off workers. The Office of Management and Budget forecasts that in 1992 unemployment will linger as high as 6.6 percent. Unfortunately, older workers whose employment has been terminated face barriers to re-entry into the workforce that younger workers do not face. Because of age discrimination, many older workers suffer long periods of unemployment or never find another job. The hard economic times for our country together with the practice of age discrimination portend very dismal employment opportunities for persons 55 years and older.

I would hope we reject these callous and ill-advised reductions. Secretary Martin, I look forward to working with you and hope the Administration will reconsider these proposed reductions.

## OPENING REMARKS OF SENATOR ARLEN SPECTER

Senator SPECTER. Madam Secretary, I join my colleague, Chairman Harkin, in welcoming you to your first testimony before this appropriations subcommittee. I compliment you on your outstanding career in public service and on your confirmation by the Senate for this important job, and very much look forward to working with you.

The position of Secretary of Labor is always an important one, but I think never more important than in 1991. We are faced with a recession and faced with budget curtailments at many levels, and more than ever the need for self-help and employment opportunity in America so that people may care for themselves. The budget in this past decade, now my 11th year in the Senate, has been reduced very materially. And at a time of economic recession, there are an enormous amount of problems which grip the country and they are certainly evident in my stay.

At the top of the list are the problems relating to job training and the necessity for bringing the hard-core unemployed into employment. I have discussed this with you privately, and hope to work with you both on the record and off the record on many issues. But as I say, at the top of my list is the issue of job training.

I was surprised, really shocked, a few years ago to see a headline in the Philadelphia Inquirer that Philadelphia was a labor shortage area in light of the fact that there are 300,000 unemployed people in the city. It is the need for job training—not just training for those people who are the easiest to train, but to provide training to the hard-core unemployed to solve the problem of labor shortages. And I believe it is a matter which requires leadership by Government with a heavy participation by the private sector.

In my judgment, from what I have seen after talking to many, many people and viewing the situation at many levels, there is a vital self-interest on the part of business America, corporate America, small business America, to provide job training, to find people to take care of important jobs. But it requires more participation by Government to provide the leadership and coordination. That is why I am hopeful that on these issues, where we have had some real national leadership by you and by Vice President Quayle, that we can get these flags of leadership flown and encourage people to undertake this line of activity.

And it is especially troublesome now with the recession, but I think the signs are hopeful with the end of the war, energy prices, oil prices are coming down, are down now. And I think we see sunshine fairly close, now, at the end of the tunnel.

There are many important issues that will be confronting you. The issue of mine safety is a very important one in Pennsylvania, the black lung claims, adjudication and administration issue, unemployment insurance administration, the Job Corps, the fairness of the National Labor Relation Board hearings, are all issues which

I would like to discuss with you both on the record today and off the record in the future.

As you know from years on the Hill in the legislative branch, we have to move around to many committees. I am going to have to excuse myself to attend a Veterans Committee meeting, where I am the ranking Republican. But I will return in about 25 or 30 minutes to take my turn at the questioning.

Thank you very much, Mr. Chairman.

Senator HARKIN. Thank you, Senator Specter.

Senator Hatfield.

### OPENING REMARKS OF SENATOR MARK O. HATFIELD

Senator HATFIELD. Thank you, Mr. Chairman.

Madam Secretary, I am also delighted to see you here, and welcome you to our committee. Just as sort of a brief opening, let me express a concern of mine, and then I may followup during the question period. The problem of retraining dislocated forest products workers is illustrated very graphically in my State. In Oregon, about 51 percent of the real estate is owned by the Federal Government—the largest timber-producing State in the Union, as far as housing materials are concerned. Federal policy governing the use of public lands in my State has a tremendous impact upon jobs, and the timber industry is a cornerstone of our economy.

Due to the changing character of Federal policy governing the utilization of that material, raw material, we find a significant reduction, probably over the next 5 years it will be about a 50-percent reduction. We have 80 communities in our State that have a one- or two-mill economy. So when you consider the indirect employment as well as the direct and the related employment, we have potential ghost towns in our State. We are estimating that the job loss will rise as high as 25,000 out of the 77,000 currently directly employed in the industry.

Therefore, I put a lot of focus on support for the dislocated worker, and would urge your attention to this particular issue. I urge your expeditious consideration by the Department of any applications for emergency discretion grants. I note, for the record, the Department recently awarded Oregon a $2 million discretionary grant under the title III program. In addition, I urge you to provide technical assistance, and a measure of regulatory flexibility as the State feels its way along, so to speak, in a new area. And of course, to perhaps look at some possible demonstration projects under title III. That is the thrust of my interest at this point, and I will reserve other remarks or other comments until we get to the question period.

Thank you, Mr. Chairman.

Senator HARKIN. Thank you, Senator Hatfield. And again, Madam Secretary, I want to welcome you here in your first appearance before this subcommittee. And as I said in my opening statement that I look forward to working with you this year. We are going to have a lot of problems with our budget, as you know, and trying to get our job done. I also want to thank you for sending your testimony up early, which I like to read over beforehand, and I appreciate that very much.

I would recognize, before we start, Senator Gorton for any opening statements.

Senator GORTON. Thank you, Mr. Chairman. No opening statement.

Senator HARKIN. Well, Madam Secretary, again, welcome to the subcommittee, and please proceed as you so desire.

### SUMMARY STATEMENT

Secretary MARTIN. Thank you, Mr. Chairman. Two things—when I walked into the room, I wondered if perhaps the temperature was evidencing a coolness, but the warmth of your welcome indeed warms the spirit, and that is the important thing. Because I am relatively new on the job, you were kind enough to be helpful to me both at the committee and on the floor. I would like to say that I bring with me some of the assistant secretaries today, who have some direct insight into areas that I know members of this committee have some special views on. I thought it appropriate that they join me today. And even though this is traditional—as you know, members of legislatures are really very used to testifying by themselves, and so for me this is a little unusual to have these fine people with me—I would like to introduce them.

### INTRODUCTION OF ASSOCIATES

The Assistant Secretary for Employment and Training, Bob Jones, who has spent a lot of time before your committee on the authorizing end, you know. Tom Komarek is the Assistant Secretary for Administration and Management. I also brought Jim McMullen, who is with our Budget Office. So that if there are particular questions I am not familiar with, they can help. I should also add, Mr. Chairman, that, for the first time that we know of, I have already recently testified before the Senate Budget Committee. The Department, for whatever reason, has traditionally not done that, but we are trying to make very sure that we are as open as possible to Members of the Senate and of the other body. Thank you.

I would like to have my full statement entered for the record and just go to highlights, so we can better answer your questions.

I am pleased to appear before you, and again, thank all of you for the help you gave me. Mr. Chairman, I am also grateful for the solid foundation left to me in the Department by Secretary Dole and by her predecessors. During her stewardship, and she is my immediate predecessor, she built upon the actions of outstanding secretaries that had gone before her and moved the Department in many new and exciting directions. So it makes me extraordinarily fortunate to take the handle of a department which has such a rich history, and I believe has made a positive contribution to the lives of Americans.

It is our working men and women in factories, farms, ships, businesses, Government offices, health care facilities, schools, and everywhere else, who have been the backbone of the great economic machine that is America. We have built a democracy which continues to inspire mankind. During my years in public service, I have stood squarely in the corner of America's working men and women.

That is where the Labor Department should be, and that is where it will be during my tenure.

Before I present the budget, I would like to share the goals that all of us have for the Labor Department, goals that I mentioned during that confirmation hearing in January. And it is part of the spectrum that would affect American workers from the time before they enter the work force, while they are in the work force, and after—the retirement years—having served admirably, and working probably in as many as six different careers.

First, in order for working men and women to take advantage of opportunities we can provide, I want to make sure they have the skills that form a lifetime foundation. And again, I repeat, the years of the past where you had one job at one place are now not common. They are the exception, not necessarily the rule. Today's person starting in the work force will not have just six different jobs, but six different careers, so when we talk about that base of learning skills, it is real. It is not a particular skill necessarily, but the ability to learn and the chance to learn all of one's life. That is a difference, and it is something you have talked about often, Mr. Chairman.

In this day of a global economy, America is faced with new realities. Productivity is no longer the only standard that determines success or failure in our marketplace and the marketplaces of the world. We have to address quality, customization, variety, timeliness, and convenience of our goods and services. Effective preparation and utilization of our work force to meet these new standards will determine America's ability to compete in the global economy.

As Labor Secretary, work force preparedness will be among the top priorities. I will work actively with labor, business, educators, and colleagues in the House and Senate, and at the State and local level, where much creative work is being done. I wish to ensure that we understand the international challenge and its complex of human resource development and trade strategies so that Americans can compete better today and tomorrow.

My second goal will be to fulfill our obligation to those currently on the job, which includes insuring our workers are as safe as possible and that everyone has an equal opportunity to try to succeed. I am proud to serve a President who is committed to opening doors for all Americans. Equal opportunity in the workplace has long been a passion of mine, Mr. Chairman. As a Member of Congress, I helped, I believe and hope, to make sure that House employees could have a process that could save them from discriminatory tactics and unsafe working conditions.

As a working parent, I am committed to supporting and encouraging innovative programs which assist both mothers and fathers in balancing work and family as they search for great equality in their lives.

Mr. Chairman, my third goal will be to ensure basic fairness and integrity of the private pension system through enforcement of ERISA. During my five terms in the Congress, I heard time and time again from constituents who were concerned about the safety of their pensions. Safeguarding American's retirement funds is foremost on the agenda to ensure worker's security at the end of employment. So I will work to ensure that that system is safe and meets the needs of today's work force and the retirees of tomorrow. And that will involve changes in the pension system itself.

The Department will continue to place strong emphasis on firm and fair enforcement. Vigorous enforcement of our statutes and regulations is critical to the mission of the Department. Just as these provisions mandate, however, what management and labor cannot do, I believe the Department must work to be a can do agency. One of the ways in which that can happen is to provide compliance assistance so that we make sure businesses large and small know what the laws are and strive to achieve them, and the Department makes them sure of its enforcement.

We much encourage State and local governments, as well as management, labor unions, and individual workers to cooperate in developing solutions to problems. The Federal Government does not have all the resources, or all the ingenuity, or all the smarts to provide all the answers. It is, after all, in large and small businesses, where the jobs are created. Businesses need the flexibility to continue to create jobs and to remain competitive. And businesses, too, must learn to use their work forces better.

Mr. Chairman, members of the subcommittee, as we search together for solutions for competitiveness and to every other problem that faces us, my door will remain open to labor, business, State and local governments, and of course, always, to Members of the Senate and the other body. I hope my mind will remain open, too, to better ways and different times, and to change.

Finally, Mr. Chairman, I want to mention that we are all deeply indebted to the hundreds of thousands of men and women who are serving in Operation Desert Storm; 223,000 of them were called away from their jobs to serve their Nation. As our troops return home, let us all be clear that one of the top priorities of the Department of Labor will be to see that those who served in the Persian Gulf are welcomed back to the workplace. Each is entitled to be restored to the position that he or she would have achieved but for that military service. In the event of disability sustained during service, that person should be offered that or another position that meets the needs of that individual.

Mr. Chairman, before I provide a summary of the fiscal year 1992 budget, I would like to take this opportunity to acknowledge all that you have done and all the subcommittee you chair on disability policy have done with the passage of the Americans with Disabilities Act. Your commitment as chief sponsor in the Senate and floor manager in large measure facilitated passage in the Senate. It shows what both parties, both Houses, and the executive and legislative branches can do with input from private sectors when we work together.

We share that concern. The ADA will redefine the American work force by adding a large new protected minority. In the ETA, it is estimated that 12 percent of our JTPA grant participants are disabled. Further, $3.9 million in JTPA pilot and demonstration funding is utilized for projects for people with disabilities to increase the number and quality of job opportunities.

Also, the President's Committee on Employment of People with Disabilities continues to play a strong advocacy role in promoting employment opportunities for people with disabilities. My staff in the Office of Federal Contract Compliance, who have responsibility for enforcing section 503 of the Rehabilitation Act of 1973, are already working with the Equal Employment Opportunity Commission to coordinate the provisions of the ADA with our section 503 regulations to make sure that the standards under the two laws are consistent. We plan to issue draft coordination regulations by October 1991 and final rules in January 1992. The ADA sends forth a clear message that the employment of millions of workers, heretofore assumed unemployable, is now a moral, economic, and legal imperative in this country.

The fiscal year 1992 Department of Labor budget now before this committee now contains a request for new appropriated budget authority in the amount of $7.3 billion. An additional $3.4 billion is requested in trust fund limitations. The total budget for the Department, including permanent indefinite budget authority, is $33.2 billion.

As you know, the enactment of the Budget Enforcement Act of 1990 established limits on spending in the discretionary category, with very specific procedures to ensure that deficit targets are not exceeded. The Department's fiscal year 1992 budget reflects the President's and my commitment to limit spending in the discretionary programs and thus bring the deficit under control. At the same time, this budget contains necessary resources to allow the Department to continue to meet the significant responsibilities we have and provide for new challenges which the Department is about to undertake.

The fiscal year 1992 requests for job training grants assumes that amendments to the JTPA, similar, but not totally alike, to those proposed last year, will be passed this year. For youth programs, $1.3 billion is requested, and a total of $1.1 billion is requested for adults. An estimated 503,000 youth and 417,400 adults are expected to be served in these enhanced programs in fiscal year 1992.

In fiscal year 1992, $527 million is requested for economic dislocation and worker adjustment assistance, which will serve an estimated 294,000 participants. This will include an additional $50 million for the Clean Air Act which was passed by the House and Senate last year.

The budget request for the Job Corps is $887.5 million. And the request for the Community Service Employment for Older Americans is $342.8 million.

Also included in the request is $2.3 billion for unemployment insurance expenses, an increase of $278.4 million over the appropriated 1991 level. And that is a 14-percent increase, Mr. Chairman. The Administration is proposing a supplemental for an additional $100 million, due to projected increases in the unemployment insurance workload. For employment services, the request is $836.9 million.

With respect to these accounts which provide departmental staffing for employment and training programs, worker protection, labor standards, and statistics, we are requesting 18,628 FTE in fiscal year 1992, a net increase of 273 slots over fiscal year 1991. The change is the net of additions in high priority programs, decreases due to reductions already planned, and constraints in the budget.

And Mr. Chairman and members of the committee, I have to add—although this is not my budget, it actually was released before my confirmation—I am learning to love it greatly, enjoy its resources, and understand what you as members of an appropriations committee know full well. And that is, although there might be certain spots where you can and will make changes, the overall ceiling does cut the level of rhetoric down. I cannot come to you and tell you how I would put more into everything. Because the answer is—I cannot, will not, and should not. And if there are areas in which you want to see substantial differences, the resources have to come from other areas which also have needs, constituencies, and the desire to do well. So it is a difficult balancing act which will now engage you and one in which I hope our cooperation will be as full as possible.

## PREPARED STATEMENT

We at the Department of Labor feel that the priorities reflected in the fiscal year 1992 budget will enable us to continue our efforts to make a positive influence in the lives and well-being of America's workers.

This concludes my statement, Mr. Chairman, and I will be happy, along with the assistant secretaries here with me, to try to answer your questions.

[The statement follows:]

### STATEMENT OF LYNN MARTIN

Mr. Chairman and members of the subcommittee, I am pleased to appear before you and other members of the Subcommittee to discuss the Department of Labor's fiscal year 1992 budget request. I would like to extend my thanks to you for the courtesies extended to me since I became Secretary of Labor.

I am grateful, Mr. Chairman, as I am sure are the members of this Subcommittee, for the solid foundation left me by Elizabeth Dole at the Department of Labor. During her stewardship, she was able to build upon the actions of people who preceded her, moving the Department in many new and exciting directions. I am fortunate to take the helm of a Department which has such a rich history and has made a positive difference in the quality of life of America's working men and women. It is our working men and women in factories, farms, ships, businesses, government offices, health care facilities, schools and other areas, who have been the backbone of the great American economic machine, and have built a democracy which continues to inspire mankind. During my years in public service, I have stood squarely in the corner of America's working men and women and that is where the Labor Department will stand during my tenure as Secretary.

Before I detail the Department's budget, I would like to share with you the goals which I have for the Labor Department, goals that I mentioned during my confirmation hearing in January. These goals represent a spectrum for American workers which will touch their lives before, during, and after their years in the labor force.

First, in order for working men and women to take advantage of the opportunities our nation provides. I will strive to ensure that our working men and women have the skills to form a lifetime foundation for productive work. Moreover, by working with labor, business, educators, and state and local governments, I will do all that I can to assure that Americans have the best jobs possible.

Our human resources are our most precious natural resource. This is equally true in times of peace and in times of conflict. We must commit our full attention to enhancing our human resources. Skills training may be the single most important task we undertake and in fact, the most meaningful to the future of our country and its workforce. In fiscal year 1992, the Labor Department will spend $5.3 billion for employment and training programs. In this era of fiscal restraint, one of my top priorities will be to see that our programs are directed to those who are least skilled, and are the most disadvantaged. Assuring that programs meet today's needs is a mandate I will work hard to achieve. I will squeeze every training dollar as tight as I can to get the most out of it.

Mr. Chairman, in this day of a "global economy," America is faced with a new reality, that productivity is no longer the only standard that determines success or failure in the marketplace. In today's world, we must address the quality, customization, variety, timeliness and convenience of our goods and services. Effective preparation and utilization of our workforce to meet these new standards will determine America's ability to compete in the global economy. As Labor Secretary, workforce preparedness will be among my top priorities, and I will work actively with labor, business, educators, and colleagues in government at all levels. I want to ensure that we understand the international challenge and its complex of human resource development and trade strategies so that Americans can compete better today and in the future.

My second goal for the Department will be to fulfill our obligation to those currently on the job, which includes ensuring that our workers are as safe as possible, and that everyone has an equal opportunity to succeed. I am proud to serve a President who is committed to opening doors for all Americans. I am awaiting the results of a series of fact-finding glass ceiling reviews being conducted by the Department. As you know, the "glass ceiling" refers to the invisible barrier in the management ranks of business and industry which freeze women and minorities from advancing beyond mid-management levels. Equal opportunity in the workplace has long been a passion of mine, Mr. Chairman. As a Member of Congress, I led the fight to protect House employees from discrimination and unsafe working conditions. As a working parent, I am also committed to supporting and encouraging innovative programs which assist both mothers and fathers in balancing work and family responsibilities.

Mr. Chairman, my third goal will be to ensure basic fairness and integrity of the private pension system through enforcement of ERISA. During my five terms in Congress, I heard time and time again from constituents who were concerned about the safety of their pensions. Safeguarding Americans' retirement funds is foremost on my agenda to ensure workers' security at the end of our workers' employment. I will work to ensure that our private pension system is safe and meets the needs of today's workforce and the retirees of tomorrow.

The Department will continue to place strong emphasis on firm and fair enforcement. Vigorous enforcement of our statutes and regulations is critical to the mission of the Department. However, just as these provisions mandate what management and labor cannot do, I believe that the Department must be a can do agency. One of the ways in which the Department can help ensure the welfare of American workers is to provide "compliance assistance" so that businesses large and small know what the laws are and strive to achieve voluntary compliance.

We must also encourage State and local governments, as well as management, labor unions and individual workers to cooperate in developing solutions to problems and competitiveness issues that face America's workforce. The Federal government does not have all the resources or ingenuity to provide all solutions. It is, after all, in small and large businesses across America where jobs are created. These businesses need the flexibility to continue to create jobs, and to remain competitive in today's ever-changing global market.

Mr. Chairman and Members of the Subcommittee, as we search together for solutions to competitiveness issues and other problems, my door will be open to Congress, labor, business, and State and local governments. My mind will be open to better ways of doing things.

Finally, Mr. Chairman, I want to mention that we are all deeply indebted to the hundreds of thousands of men and women who are serving in Operation Desert Storm, many of whom were called away from their jobs to serve their nation. As our troops return home, let me make it very clear that one of my top priorities will be to see that those who served in the Persian Gulf are welcomed back with open arms to the workplace. Each is entitled to be restored to the position that he or she would have achieved, but for military service, and in the event of disability sustained during service, the person should be offered another appropriate position.

I will now proceed with an overview of the programs and resources contained in this budget request, one which reflects my intent to assure that every dollar is wisely spent.

The fiscal year 1992 Department of Labor budget now before you contains a request for new budget authority in the amount of $7.3 billion. An additional $3.4 billion is requested in trust fund limitations. As you know, the enactment of the Budget Enforcement Act of 1990 established limits on spending in the discretionary category with very specific procedures to ensure that deficit targets are not exceeded. The Department's fiscal year 1992 budget reflects the President's and my commitment to limit spending in discretionary programs and thus bring the deficit under control. At the same time, this budget contains necessary resources to allow the Department to continue to meet the significant responsibilities that we have and provide for some new challenges which the Department is about to undertake.

With respect to legislative initiatives, the fiscal year 1992 budget request once again assumes passage of a set of amendments to JTPA. The principal changes will be to replace the existing Block Grant and Summer Youth employment and training programs with separate year-round programs for adults and youth. I will be reviewing other aspects of the proposal before it is transmitted to the Congress. The amendments are intended to target more intensive and comprehensive services to economically disadvantaged individuals with significant barriers to employment. Also, we will again propose in the amendments authorization for a series of Youth Opportunities Unlimited (YOU) demonstrations to target comprehensive services to youth living in high poverty areas. The fiscal year 1992 request for job training grants for youth is $1.3 billion and a total of $1.1 billion is requested for adults. An estimated 503,000 youth and 417,400 adults are expected to be served in these enhanced programs in fiscal year 1992. Another $25 million is requested for the new YOU demonstrations to target comprehensive services to an estimated 16,800 youth living in approximately 25 high poverty areas.

Legislation will be proposed once again to repeal the training, job search, relocation, and benefit entitlements of the Trade Act of 1974. The Administration continues to feel that the training and benefits provided under Title III of JTPA are sufficient to meet the need. Repeal of the Trade Adjustment Assistance (TAA) provision of the Trade Act would eliminate costly duplication and inequitable treatment of displaced workers. The fiscal year 1992 request for TAA is for $226.2 million to provide $154 million for TAA benefits, $72 million for TAA training and $250,000 for benefits and allowances under the Redwood National Park Act. Assuming TAA is repealed effective October 1, 1991, the Department will no longer require $164 million of its current request and that amount will be withdrawn. The balance of about $62 million remaining in the fiscal year 1992 request will be used to pay benefits to workers receiving assistance under TAA as of September 30, 1991. Training and other support services will continue to be available under the Economic Dislocation and Worker Adjustment Assistance (EDWAA) program. In fiscal year 1992, $527 million is requested for EDWAA which will serve an estimated 294,000 participants. This will include $50 million for the recently passed Clean Air Act to provide assistance to individuals displaced from their jobs as a result of the Act's requirements.

Consistent with my goal of ensuring basic fairness and integrity of the private pension and welfare benefits system through enforcement of ERISA, I expect to repropose legislation to strengthen the enforcement provisions of ERISA. I am currently reviewing the specific elements of the enforcement legislative proposal that was introduced on the Administration's behalf in the last Congress. I will be reviewing the specifics of that legislation to determine whether I wish to make any modifications in the Department's proposal. I can assure you, however, that I strongly believe in the goals behind the ERISA enforcement legislation.

We will also propose legislation to clarify and improve the status of the Pension Benefit Guaranty Corporation's (PBGC) claims in bankruptcy, including the recovery for shutdown benefits provided in some pension plans, to give PBGC the option of becoming a member of creditors' committees in bankruptcy proceedings, and to further tighten interest rates used to determine company contributions to underfunded pensions. The primary concerns in this legislative proposal are that PBGC receive priority in claiming assets when firms are terminating pension plans during bankruptcy proceedings and that plans improve their funding to reduce PBGC's risks.

Mr. Chairman, before I provide a summary of the Department's fiscal year 1992 budget, I would first like to take this opportunity to acknowledge all of the fine work that you and members of the Subcommittee you Chair on Disability Policy for the passage of the Americans With Disabilities Act. Your personal commitment as Chief sponsor and floor manager in large measure facilitated passage of this landmark legislation.

Mr. Chairman, we in the Labor Department share your concerns about the needs of the disabled. The ADA will redefine the American workforce by adding a very large new protected minority. In the Employment and Training Administration, it is estimated that 8 percent of our JTPA grant participants are disabled. Further, $3.9 million in JTPA Pilot and Demonstration funding is utilized for projects for people with disabilities to increase the number and quality of job opportunities. Also, the President's Committee on Employment of People with Disabilities continues to play a strong advocacy role in promoting employment opportunities for people with disabilities. My staff in the Office of Federal Contract Compliance who have responsibility for enforcing Section 503 of the Rehabilitation Act of 1973 are already working with the Equal Employment Opportunity Commission to coordinate the provisions of the ADA with our Section 503 regulations to ensure that the standards under the two laws are consistent. We plan to issue draft coordination regulations by October 1991 and final rules in January 1992. The ADA sends forth a clear message that the employment of millions of workers, heretofore assumed unemployable, is now a moral, economic and legal imperative in this country.

For the Job Corps, the budget request is for $887.5 million in fiscal year 1992. The request includes proposed appropriations language that would allow us to utilize $20 million, previously appropriated for four new centers (two each in fiscal years 1992 and 1993), for ongoing construction, rehabilitation and acquisition needs during fiscal year 1992. These funds will be used to correct known safety and health deficiencies and other substandard conditions and allow for additional center relocations. The two new centers that are scheduled to open in fiscal year 1991 (Alabama and Kansas) will raise the number of program slots available to 41,338.

The request for Federally administered JTPA programs of assistance to specific groups such as Native Americans, migrant and seasonal farmworkers, veterans, and JTPA research activities and pilots and demonstration programs is $186.7 million in fiscal year 1992, which is a net decrease of $36.9 million below fiscal year 1991. Funding for the Stewart B. McKinney Homeless Assistance Act is not requested for fiscal year 1992 in the Department of Labor. Rather, funding will be requested in a new Supplemental Assistance for Facilities to Assist the Homeless account in the Department of Housing and Urban Development.

The request for the Community Service Employment for Older Americans is $342.8 million, the same amount requested last year, and a decrease of $47.5 million below the fiscal year 1991 appropriation. This request will support 56,600 slots in this program from July 1, 1992 through June 30, 1993.

This budget request includes $2.3 billion for unemployment insurance administrative expenses, an increase of $278.4 million (14 percent) over the appropriated fiscal year 1991 level. The fiscal year 1992 level will provide over 49,300 staff years of service to operate the unemployment insurance programs. The Administration is proposing a fiscal year 1991 supplemental appropriation for an additional $100 million for this program due to projected increases in the unemployment insurance workload. For Employment Services, the request is for $836.9 million in fiscal year 1992, a net decrease of $48 million from fiscal year 1991. Included in this level is $750 million for State grants and $86.9 million for National activities. Included in National activities is a $27.5 million program increase specifically for increased alien labor certification workload and $12.2 million for state-automation grants which was provided in the fiscal year 1991 appropriation. In addition, the Administration will propose a reauthorization of the Targeted Jobs Tax Credit program for an additional year (i.e., through December 31, 1992). The fiscal year 1992 request will be amended to provide an additional $20 million to cover the administrative costs of this program.

With respect to those accounts which provide Departmental staffing for employment and training programs, worker protection, labor and employment standards and statistics, we are requesting 18,628 FTE in fiscal year 1992, a net increase of 273 FTE over fiscal year 1991. The change is the net of additions in high priority programs, decreases due to planned reductions, and overall budgetary constraints.

The major increases proposed in specific accounts are as follows: For the Program Administration account, which funds staff in the Employment and Training Administration, our request includes an increase of $9.1 million and 31 FTE over the fiscal year 1991 level. Included in this total is an increase of $1.5 million and 31 FTE for increased responsibilities and workload under the Immigration Act of 1990.

In the Labor-Management Services appropriation, we are requesting an increase of $8.5 million over the fiscal year 1991 level. An additional $7.4 million is requested for the Pension and Welfare Benefits Administration which includes $4 million for the increased cost of processing Forms 5500 filed with the Internal Revenue Service and $1 million for enhanced automated data processing operations. The fiscal year 1992 request also includes an increase of $1.3 million and a net decrease of 10 FTE in the Office of Labor Management Standards. Included in this level is $275,000 for support services to improve compliance assistance and staff productivity.

For the Pension Benefit Guaranty Corporation (PBGC), the fiscal year 1992 request includes a program increase of $4.3 million and 21 FTE to support their loss prevention efforts, for information resource management improvements, and for the audit required by enactment of the Chief Financial Officers Act of 1990. Also, a fiscal year 1991 language supplemental is proposed for PBGC to provide for greater flexibility in managing large and unpredictable expenses that arise so they can better handle the large pension plan terminations that they face.

For the Employment Standards Administration, the fiscal year 1992 request includes an increase of $18.8 million in the salaries and expenses account over the fiscal year 1991 level. This amount includes an increase of $2.9 million and 50 FTE to begin a review of the long-term roll in the Federal Employees' Compensation program.

The fiscal year 1992 request includes a proposal for an appropriation language change in the Special Benefits appropriation whereby the Department would be allowed to reimburse an employer, whether private or Federal, for a portion of the reemployed worker's salary to encourage employers to rehire disabled Federal workers.

For the Occupational Safety and Health Administration, we are requesting an increase of $16.9 million for enforcement of safety and health programs.

For the Mine Safety and Health Administration, we are requesting an increase of $12.6 million over the fiscal year 1991 level. The fiscal year 1992 request includes $1 million to continue the replacement and standardization of management information systems.

For the Bureau of Labor Statistics, we are requesting an increase of $53.7 million and 212 FTE over the fiscal year 1991 level. Included is an increase of $16.1 million and 96 FTE for improvement of Federal economic indicators and $15.8 million and 140 FTE for surveys to support the Federal Employees Pay Comparability Act of 1990. Also, the request reflects a program decrease of $5.9 million and 14 FTE for elimination of the Mass Layoffs program.

For the Departmental Management appropriation, a net increase of $19.1 million and 29 FTE is requested in fiscal year 1992. This includes an additional $5.1 million for an expanded program of policy-related research, $1.3 million and 24 FTE for legal staff and litigation support, and $2.2 million for other diverse program activities.

For the Veterans' Employment and Training Service, a proposed net decrease of $38.7 million below the fiscal year 1991 level is requested. For Federal administration, there is an increase of $2.9 million in fiscal year 1992, which includes $1.8 million for an expanded Transition Assistance Program. The fiscal year 1992 request does not include funding for the National Veterans' Training Institute. Our analysis shows that the need for staff training will decrease in line with planned staff reductions in fiscal year 1992. We project that by the end of fiscal year 1991 most Disabled Veterans' Outreach Program (DVOP) and Local Veterans' Employment Program (LVER) staff will have been trained in Professional Skills.

The amount requested in fiscal year 1992 for DVOP and LVER, state-level grant programs, is reduced by $39.1 million. This reduction is due to a "sunset" provision which Congress included in the authorizing legislation for the DVOP program which will eliminate Vietnam era veterans from the staffing formula. No provision has been made for extending the authorization for this legislation.

Mr. Chairman, we at the Department of Labor feel that the priorities reflected in our fiscal year 1992 budget request will enable us to continue our efforts to make a positive difference in the lives and well-being of America's workers.

This concludes my prepared statement, Mr. Chairman. I would certainly be happy to answer any questions that you or other members of the Subcommittee may have.

## BIOGRAPHY OF LYNN MARTIN

On December 14, 1990, President George Bush announced his intention to nominate former congresswoman Lynn Martin as the 21st Secretary of Labor. On February 7th Mrs. Martin was confirmed by the Senate by a vote of 94 to 0.

Martin represented the 16th District of Illinois in the U.S. House of Representatives from 1981 to 1991. During her service in the House, Martin held a series of leadership positions. She served one term on the powerful House Rules Committee, two terms on the House Armed Services Committee, three terms on the House Budget Committee, and one term on both the Committee on Public Works and Transportation and the Committee on the District of Columbia.

Martin was one of the first women to achieve an elective leadership post in the House when in 1982 her colleagues chose her for the position of Vice Chair of the House Republican Conference, a position she held for four years. In this position Martin attended weekly meetings with the President, Vice President and other Congressional leaders.

In the 100th Congress, she led a successful bipartisan battle to extend to Congressional employees the same civil rights protection available to most other American workers. In the 101st Congress, she co-chaired the Bipartisan Ethics Task Force set up to review standards of official conduct for Members of Congress.

Martin's career in politics began in 1972 when she was elected to the Winnebago County board, where she served for four years. She then served in the Illinois House from 1977–79 and in the Illinois Senate from 1979–81.

Lynn Morley Martin was born in Chicago, Illinois on December 26, 1939. She graduated Phi Beta Kappa from the University of Illinois in 1960 and taught high school economics, government and English. She has two daughters, Julia and Caroline, and is married to the Honorable Hardy Leinenweber, U.S. District Judge for the Northern District of Illinois.

## UNEMPLOYMENT FUNDING NEEDS

Senator **Harkin**. Madam Secretary, thank you very much for that statement and for pointing out the goals of the Labor Department. We concur in those goals. We will do everything we can to help you achieve them.

I just have a few questions to start off with. The first one—the one I mentioned in my opening statement—has to do with the difference between the request and the stated need for unemployment services, the supplemental funding for unemployment offices to speed up the processing. You asked for $100 million—I made a mistake earlier. Iowa had a 25-percent increase in new claims. I guess the national average has been about 22 percent. And they tell me the worst is yet to come. I guess there is a lag in the recession. Unemployment lags are supposed to come up later as demonstrated by this chart here.

Where is the chart? I have charts.

The chart people have been busy. There are the charts.

First of all, you have to tell me. Where did this data come from—oh, the Department of Labor. [Laughter.]

I did not know if it came from us or not. But evidently, you can see the January-to-March, April-to-June figures are going to go up—projected to go up considerably.

And I guess I have two questions. One, why did you not request the $201 million, which is what the Department indicates is the amount needed to make up the entire shortfall; and second, why did you not request it as an emergency, which then avoids any possibility we might have to pay for it by cutting other domestic programs. Because this is an emergency, you know, under the rules that we now have to work under. If it is listed as an emergency, we are exempted from taking it out of other domestic programs, which you indicated are already pretty tight right now, job training and other things like that.

So those are basically my first two questions.

Secretary **Martin**. Well, first of all, those are Department of Labor statistics, and the good news is that April-to-June is the high. If you had continued the chart, you would have seen it begin to go back the other way. I am sure that is not why the chart was stopped there, but the later data not shown is a good thing to know. And we will be happy to give you those figures if you would like them, Mr. Chairman.

And now to your question, which I think is really a three-part question. Part one is, do you think the money is enough?

With the carryover, and with the $100 million supplemental, we believe it is enough, with the assumption that the unemployment numbers stay the same. Virtually all of the private forecasters and almost all the public forecasters are suggesting that this is a relatively mild recession and indeed may have or is shortly to bottom-out.

For a moment, let us not use OMB, since that sometimes raises a red flag in legislative halls. Even using the CBO estimate of $200 million, which includes the carry-over, the $100 million supplemental should be enough.

Now again, if something happens and unemployment goes up, which none of us want to happen nor believe will happen, then those numbers would change.

I have to add a caveat here, Mr. Chairman. There are some States—few, but some—whose systems are not as up-to-date as they should be. Just giving them more money will not change the fact that their systems have flaws.

### LACK OF MODERNIZATION IN STATES

Senator **HARKIN**. That there is waiting lines and things like that, is what you are saying.

Secretary **MARTIN**. Well, some States just are not as modern as they should be. I am sure Iowa is not one of them, but there are some States where even if we gave them more money, we would continue to see some of the same problems until the States themselves make corrections. I might add, some of the Governors are determined to make those changes.

Senator **HARKIN**. But you are talking about processing time.

Secretary **MARTIN**. Yes; that is what the money is for. Remember, this is money for administration only. We are not talking about money for benefits for the unemployed. This is money that goes for the administration of the programs in the States to make sure that the unemployed get their money: The clerks, the counselors, and the other workers there. And if the system is flawed within that State, you can give it more money, but the system is still flawed.

The third part of your question is, why is it not now an emergency. The Congress, in its wisdom, passed the Budget Act of 1990 and made the definition for emergencies very strict indeed. I believe that in this particular case, it is not yet time to make it an emergency.

I would like to sit here and say we can do everything. But if we are able to get the $100 million and put that with the carryover of about $100 million, we think that will be enough. And, if the Senate or the House chooses to make this an emergency, that would be a big decision. It is not one that the Department would recommend at this time. If, however, you want to increase the $100 million supplemental, since we propose and you dispose, we will accept the dollars.

### UNEMPLOYMENT INSURANCE ADMINISTRATIVE NEEDS

Senator **HATFIELD**. Yes, certainly. Senator, I would like to associate myself with these concerns. Madam Secretary, as you indicate, none of these funds pay for the benefits, but this is also a trust fund in which I believe there is about $2 billion out of money in that trust fund.

Now in my State, what is happening—and I think in other States as well—where they feel that they are underfunded, they are in the process, and in the practice of diverting employer tax revenues, before they get to the trust fund to backfill the shortfalls in State's allotments for unemployment insurance administration.

Do you think this is a healthy trend? I would not want to see you in any way reduced or diminished in your leverage to get the highest efficiency in the operations and in the process. But nevertheless, what is happening, is the diversion, before you ever get control of that money. And I am not sure that I think that is a healthy trend.

How do you respond to that?

Secretary MARTIN. In two ways: One, I was not aware of that particular practice in your State. We should look into it. We are certainly hearing from the States and the States Governors. And I have talked to a number of the Governors on this issue. In regard to the trust fund—the problem is not expressly limited to this fund. There are always demands you can hear it in transportation and in other areas. But since I am not familiar with what specifically your State is doing, I will be happy to examine it and get an answer back to you.

### APPROPRIATE UNEMPLOYMENT INSURANCE FUNDING LEVEL

Senator HATFIELD. The State legislature has been asked by the Governor to divert $6 million from employer tax revenues, in order to have sufficient resources to backfill, and be able to operate because of the shortage of support for employment security activities that is coming through the normal process.

Now you are talking about process, and I am concerned that a problem may be arising. Remember in the supplemental, the administration requested $100 million. But the estimates from the States, ranged from $150 million to $200 million. Now is it just process, or are there different bases of estimates and evaluations? Are we comparing apples and oranges? I am concerned about a process in which the States are forced to override you, or so to speak, circumvent the administration's request for funding.

Secretary MARTIN. There are two things: One, we are picking up about $100 million in carry-over; and, two, we are fully funding 1992 for the next fiscal year. So we are talking about a relatively brief period of time here.

Again, no one on this side of the table is familiar with the particular instance of which you speak. And so we will examine that quickly to see what effect it has.

There is still going to be a gap, because the supplemental is not going to pass today. It is not even going to be in the process line for a while. So part of what States are doing is waiting for all of us to get the supplemental, whatever the amount. I certainly cannot tell, perhaps you could tell me, what the time line is on the supplemental. We would like the supplemental to get moving as quickly as possible.

Mr. **Jones**. Senator, I think that both comments are actually true. The figure of $100 million or $200 million are fixed figures, in terms of the needs of the system. There is no question about that. It is based on the projected unemployment rates and workloads that the States have across the base. The differential comes in two things: How much carry-over the State might have had; and Second, how they process their claims, a highly variable issue from State to State, as well as how much is in staff, how much is in mechanization, and other kinds of things.

The third point you raise, that States tend to make things fungible, is, in fact, both a positive and negative. The answer is yes, all States do it to some extent. It is an appropriate thing to do. The laws have been designed, in fact, to allow that flexibility to occur from time to time. If it were to occur on a long-term basis, it would be counterproductive, obviously, because the employment services staff is needed to assist people getting back to work.

Senator **Harkin**. But you are addressing this diversion?

Mr. **Jones**. Yes, sir; we keep a very close line on exactly what each State does.

Senator **Harkin**. Because my information indicates that the State of Oregon, since 1988—in 1988 it was almost $4 million; another $4 million in 1990; and this year it is $6 million. So there is a trend line, that I would think that would concern the Department here, for at least one State. And I do not—I just do not understand the process that clearly to know whether it is a flaw in the system, or whether it is a valve to let off some special steam at a moment of time and need, and maybe it is acceptable.

But it seems to me there is a cause and relationship between the level of funding that we appropriate, and the growing tendency of a State to compensate, and at the same time, not meet the inefficiencies of the process that the Secretary is trying to leverage, maybe, in limiting that total. I do not know.

### PERCENTAGE OF UNEMPLOYMENT INSURANCE CONTINGENCY FUNDED

Secretary **Martin**. Let me add something here, as long as you promise not to get too angry at the messenger.

We are not going to fund administration at 100 percent under the supplemental. We will be funding it at 75 percent. Now, if you are on the Federal level, you may look at that and say, well that is appropriate, because it is allowed under the law. We are in deficit. It makes some sense and you can understand the philosophical underpinnings.

If you are a State official, however, you want everything funded at 100 percent. So when you hear from your State officials, part of the comments that they will be making is that the Department is not fully funding the program. And that is true.

Under the decisions made for this budget, funding will be at 75 percent under the supplemental. And I do not want to have you blind-sided by that.

### REDUCED STATE UNEMPLOYMENT INSURANCE STAFF

Senator **Hatfield**. If I could just add one more brief question on that, do not forget, Madam Secretary, we are dealing with two trend lines at this moment. We have had about a 25-percent reduction of staffing levels, and we have had an increase in the unemployment insurance claims workload, as your charts show.

So I think we would have to consider those two trend lines as well.

Secretary MARTIN. I heard the second trend line—a 25-percent decrease?

Senator HATFIELD. A 25-percent reduction in staffing, as I have my information here. Just prior to this period, State unemployment staff levels dropped by 25 percent, from 57,000 to 43,000.

Secretary MARTIN. There is no disputing the numbers. If the dollars are not enough, where one gets it is an extraordinarily difficult decision.

Senator HATFIELD. I'm sorry, Mr. Chairman, I did not mean to intrude.

Senator HARKIN. Did you have any followups on this one area of questioning?

I have a little followup on this area, too.

Secretary MARTIN. Please.

## PROPOSED ADMINISTRATIVE FUNDING CHANGES

Senator HARKIN. Unemployment benefits are an entitlement. But the staff and resources needed to deliver them are not an entitlement. A number of State employment security agencies have suggested to us that we include appropriations bill language, to automatically trigger additional funding for processing unemployment claims if workloads run above some anticipated level.

Another idea relates to this contingency issue. Now this subcommittee has established contingency reserve appropriations for social security offices, and Medicare claims processing, to allow OMB to release extra funds in the event of some large workload that happens.

Would you support establishing a similar reserve fund for State unemployment offices?

Secretary MARTIN. The Department is looking into this. We are examining alternatives. We are not ready to take a position on them yet. But we are looking at alternatives to the system. The goal of the Department of Labor, under any stewardship, is to have the most efficient system possible for an entitlement. If an entitlement is there, it should move as quickly as possible.

Senator HARKIN. Are you speaking mostly about a contingency reserve, or are you speaking of an automatic trigger?

Secretary MARTIN. The automatic trigger.

Senator HARKIN. You are looking at everything, right?

Secretary MARTIN. Yes; however, we feel that the automatic trigger would not necessarily make the system work better and the contingency fund would affect the process. So we are looking to be sure.

I have to add a little anecdotal comment here. I represented the congressional district that had the highest unemployment in the country in 1982. So I am very familiar with what unemployment can do to people and with the incredible negative effects it has if the Department is not as efficient as it can be and if the State system is not as efficient as it can be.

So both for personal and professional reasons, we are examining the entire process. And though the Department cannot comment now, the examination continues.

Senator HARKIN. I appreciate knowing that. And after you have looked it all thorough and you have suggestions, if you would let us know, I would appreciate it.

Secretary MARTIN. Yes; and again, I understand that we work separately, but if you have any ideas, we welcome them.

Senator HARKIN. Like you, we are looking.

Secretary MARTIN. It is difficult. The Budget Act, with its limitations, does make us face the economic, internal realities. If we are going to talk about one program, we have to talk about where the money comes from. And it makes us all much more rational and realistic. It takes some of the fun out of it, I will tell you, and some of the demagoguery. But if you have some brilliant ideas, Mr. Chairman, I would sure like them.

### EMERGENCY SUPPLEMENTAL

Senator HARKIN. Well, no brilliant ideas, just a contingency fund and permitting OMB to release them. Again, I go back to this use of the word "emergency."

You are right. Emergency was somewhat narrowly defined, but it is my understanding to the best that I have been able to read it and understand it, that they could define, obviously, a rise in unemployment of a certain amount as being that kind of an emergency. We tend to look at emergencies in the aggregate, you know.

Secretary MARTIN. Yes; but we are not yet ready to do that.

Senator HARKIN. If it is an act of God or something like that, like a hurricane or something like that, we can understand that. But for an individual who has a family to feed and mortgage payments to make and lost their job, waiting 4 or 5 or 6 weeks is pretty dire emergency, too, and so I think it can be defined in that way.

Secretary MARTIN. Yes; the Senate could do that, or the House. I am not sure there is consensus yet on redoing the budget bill the first month out, which is, in effect, what you may be suggesting. But certainly the Department intends to remain sensitive to the human costs here.

Senator HARKIN. You are right. It does take both parties. We could go first, I suppose.

Secretary MARTIN. Yes.

Senator HARKIN. But unless we thought that there might be some——

Secretary MARTIN. Gentlemen first, I have always said.

Senator HARKIN. Well, I think there is probably more of a willingness here to do that. We would have to understand that OMB would be willing to do that too.

Secretary MARTIN. Well, I bow to your greater expertise about the Senate and its feelings. I certainly cannot claim——

Senator HARKIN. Well, I do not know. I think so, but I, you know, I just have heard from a lot of my fellow Senators, especially the

New England Senators, who are really having a lot of problems in this area.

Secretary MARTIN. Well, certainly, I think we can work together very closely to make sure that the system is, it seems right to use the word, "humane," because the word efficient sounds so cold. But the answer is, as efficient as possible, so it can be at its most humane. And I look forward to working with you on that.

Senator HARKIN. Thank you, Madam Secretary. I have some other questions that I—especially, I have one about ADA that I wanted to followup with you, and I will do that at the end.

Secretary MARTIN. All right.

Senator HARKIN. I will turn and recognize——

Secretary MARTIN. Could I add something here, Mr. Chairman?

Senator HARKIN. Yes.

Secretary MARTIN. If I do not have an answer, I will truly tell you I do not, and we will try to get back every answer as quickly as possible.

Senator HARKIN. I appreciate that candor. Thank you.

Senator Specter.

## HARDCORE UNEMPLOYED JOB TRAINING

Senator SPECTER. Thank you, Mr. Chairman.

Madam Secretary, starting with the issue of job training for the hardcore unemployed, I would be interested in two lines of responses. One, what your thinking is at the moment, and second, whether you would be willing to address this in a comprehensive way and prepare a program which would obviously require more thought than tentative views at this kind of a hearing.

Because I believe that it is a matter of such importance it is my request to you that you have your Department focus on it sufficiently to come up with a comprehensive approach regarding how to deal with the problems of a city like Philadelphia, which has an unemployed force of 220,000 to 300,000 people, where, until the recession, it had been a labor shortage area.

It is obviously a complicated issue, one where I believe we need substantial participation from the business community where they have a real self-interest in training people for their own specific employment programs, but one where I believe there has to be leadership and cooperation and some resources from State and Federal Governmental agencies.

So my first question to you is, would you be willing to address this issue of looking for some sort of a comprehensive program from the Department of Labor?

Secretary MARTIN. Yes.

Senator SPECTER. OK.

Secretary MARTIN. I could say more, but how about a nice simple yes, because it deserves it?

Senator SPECTER. And the adjunct to that would be, say a little more. What are your thoughts at the moment? [Laughter.]

Secretary MARTIN. I tried for the quick answer. I remember being on the other side and always regretting the long, involved answers.

One of the things that is quite clear is the old lines of turf between the departments on the Federal level. They may have actually made some sense in times gone by. They cannot continue any longer. And I am going to be specific to urban, unemployed, hardcore. It often also involves minorities. It involves the Justice Department, making sure the civil rights of people are protected. It involves the Department of Transportation and how you get to work. It involves how we move businesses in, and there you get to the idea of the empowerment. It involves HHS. It involves the Department of Education. We can talk about jobs all we want, but kids are dropping out at 14 or 15, even though we say they have to stay in school until 16. If a young girl is pregnant when she is 14 and quits school, her chances are less and less because it is a much more complex world out there.

Secretary Designate Alexander and I have already begun meeting. The idea is, we think that time is being lost. There are too many lives falling through the cracks. And although there is much being done, especially in Assistant Secretary Jones' agency, we have got to work together.

I am meeting with Secretary Sullivan to see how we can work together. Also, Secretary Kemp just called. There is a feeling within the cabinet, across all philosophical lines, that we can do better. And when you said, can we work together, my answer is, absolutely yes, we must.

How can we have something that is not just another dream that turns into a nightmare? Instead of the giant speech, maybe it is a group of small steps. Maybe it is more demonstration projects. I do not know the exact shape of the building yet, but it is a building where people have to be able to find a home.

It is important to us as a Nation—and Senator, I think you hinted at it directly—that it has a strong economic base. It is good for our cities, it is good for our young people, it is good for others. And I look at it as part of the commitment for an improved job force, but the one that in a sense has the most driving force. Because if we, the Department of Labor and other Departments and the House and Senate—if we do not have an answer, if we do not have better ways, we are letting a generation lose hope.

I think we can do it. I think there are skills and abilities there, and it is not just Philadelphia or Chicago or Los Angeles; it is also Des Moines. It is not just in one part and affecting only Hispanic Americans. It is also Minnesota, in a small town. And although we may see it articulated in the big cities, it is all over. That is why my yes is so fast. It is part of what we are already talking about, looking at, thinking of, and trying to make sure can happen.

Senator SPECTER. Well, I certainly agree with you that it has application nationwide, and it certainly has an economic base. And the point that I come back to is the economic self-interest of the employer to get them involved in the job training.

Secretary MARTIN. Absolutely.

Senator SPECTER. Let me pick up on a comment you made about demonstration projects, and call your attention to some programs which have been in effect during the tenure of Secretary Dole regarding youth school-to-work programs. And I would ask you to take a look at those and perhaps respond in writing at a later time concerning your own plans on that particular line.

[The information follows:]

### School-To-Work Programs

The Department of Labor has begun work on a School-To-Work policy paper, which will build on existing research in the cognitive sciences to develop approaches for stronger school-to-work connections. This paper will provide guidelines for successful school-to-work programs for the benefit of a wide audience of the country, including State and local government officials, businesses, labor and schools.

In partnership with several large and small employers, State agencies, school systems and community-based organizations from across the Nation, the Department launched, in September 1990, a $10.5 million program to make education more relevant to employment. Six 2-year grants were awarded to develop school-to-work transition models through which students will learn job-related subjects in a practical context, gain experience relevant to the workplace, and be better prepared to enter the labor market. During the past 6 months, grantees have been progressing with student recruitment and program marketing strategies, identification of workplace skill requirements, and curriculum development.

The Department is considering the funding of a second round of school-to-work transition projects that would expand the training into additional occupational categories.

### JOB TRAINING PROGRAMS IN PRISON

Senator SPECTER. In the third and related line, I would ask you to take a look at the job training programs in prisons. This is an issue which I have worked on with Assistant Secretary Quinlin and former Secretary of Education Cavazos regarding an effort to try to improve job training. It is no surprise when a functional illiterate without a trade or skill leaves jail and they come back and go into the crime cycle again. This is an issue that I have worked on a great deal over my years as a district attorney and on the District of Columbia Subcommittee on Appropriations, that lofty committee. I chaired it for 4 years. Senator Harkin, I believe, chaired it for 2 years. He had almost forgotten that. [Laughter.]

We put some job training programs in effect there. And without taking the time now, I would like you to address that and perhaps present something in writing.

[The information follows:]

### Job Training in Prisons

Programs under the Job Training Partnership Act are administered for the most part by private industry councils (PIC's) in local communities. The PIC's determine who is to be served within the eligible population and what kinds of training and services are to be provided. Persons who are in prison and expected to be released can be trained with JTPA programs resources should the PIC decide to do so. More often, local JTPA programs provide training for offenders once they are released. Frequently, the PIC has an active relationship with the court system, since frequently release is conditioned upon having a training and/or employment opportunity available. Over 8 percent of all those served in JTPA are ex-offenders. JTPA can also provide bonding for individuals in order to obtain employment in positions which otherwise might not be available to ex-offenders.

### MINE SAFETY

Senator SPECTER. I would like to turn briefly to two other subjects, because I do not want to question too long since my colleague, Senator Gorton, is waiting. One is on the issue of mine safety, where I know last year that there were 18 coal enforcement positions which were lost, and there were not too many to start with on the enforcement staff. And I presume that this is the kind of detail you could not possibly know at this juncture, but, again, I would ask you to take a look at that to see if we cannot muster the resources to put those positions back on the books.

Secretary **Martin**. You are going to be in shock on two things. One, I actually asked that question in the last few weeks, and it has one of those strange answers. There are actually going to be 100 new inspectors hired this year who will be in training when they come on board. The hiring is a result of how many inspectors we have on board versus how many are budgeted.

Senator **Specter**. 100 more?

Secretary **Martin**. Right.

Senator **Specter**. I am not going to——

Secretary **Martin**. So there will be 100 more actually out in the field this year.

Senator **Specter**. I am not going to ask you where you are going to get the money.

Secretary **Martin**. No; that is in the budget. But the second part of that, may I just tell you, is important. I am meeting with President Trumka, I believe, later this week. I will be going down into some of the mines. I think that is extraordinarily important.

With regard to job training in prisons, I just want you to know that is already on the agenda for an upcoming meeting with the Secretary of Education. It is an attempt to try and match some of the good ideas that come from the Senate to the Department's schedule.

## BLACK LUNG BACKLOGS

Senator **Specter**. The last item that I want to ask about is the backlog of cases on black lung adjudication. Under the category of 1990 actuals pending, it is a 16-month process, and there is a projection for 1991 what is categorized as an estimate to go too 13 months, and then a 1992 fiscal year request which would go to 11 months. And I would urge you to take a look there, because for the people who are waiting on those adjudications, 16 months is an eternity and 11 months is almost as much of an eternity.

Secretary **Martin**. You saw Tom whisper something to me, and the answer is something I did actually remember too. Yes; of course, we will try to do better. It is useful to remember that the backlog used to be 3 or 4 years. I can take no credit for it, because I just came on. I know people do this right away and say, Now while I am secretary it has dropped too. The fact is that the backlog has dropped from almost 4 years to 11 months. And yes, we will try to do better, but there has really been improvement under prior Secretaries, due to the really hard work of people like Tom Komarek and others. I wanted to assure you of that, Senator.

Senator **Specter**. Thank you very much, Secretary Martin.

Thank you, Mr. Chairman.

Senator **Harkin**. And we welcome our new member of the subcommittee. Senator Gorton, welcome.

Senator **Gorton**. Thank you, Mr. Chairman.

During the course of your opening statement, Secretary Martin, you said that while this was not your budget, you had come to love it. You have also emphasized what we already know about caps and the fact that to make changes in one direction will require corresponding changes in another direction.

Can you give me a brief overview of the philosophy of the budget you have grown to love? Has it taken almost all of the programs under your jurisdiction and either kept them level or given them an inflation-related increase; or, does it show any value judgments in having substantial increases in particular programs under your jurisdiction with corresponding cuts in others? And if so, what are the ones that are going up and why, and what are the ones going down, relatively speaking, and why?

Secretary **Martin**. It is—like most budgets—a combination of philosophy and reality that drives what the Department of Labor does. Unlike most other Departments of the Government, we have an extraordinary mission in enforcement. That is the reality, and that enforcement has to be firm and fair. Therefore, there are costs that go with it that must be maintained. That is the area of MSHA, OSHA, and equal opportunity. These costs are part of this budget, and I think you will see a consistent level of funding, a funding level that would mean we can get our jobs done. In a case like MSHA where more people will be coming on line because of decisions made 1 year ago or 2 years ago, we hope to be able to do the job better.

The budget has other substantial philosophical changes with appropriate resources to support them. What might be perceived as a small change, but one that is extraordinarily important, is a very big increase in the area of labor statistics. The Bureau of Labor Statistics within the Department of Labor is viewed, I think, objectively, as having not just some of the best statistical data in the world, but data easily understood, without pointing at other kinds of data available. You can actually understand it. That is why it is so widely used. This effort is part of a Presidential push—also certainly Dr. Norwood, Michael Boskin, and others, and I do not think it matters the political tenor of the administration—to improve the data-gathering and to move into other areas where we know we need data and just do not have it. So that people such as the Senate of the United States can make even better decisions because of the data base they will have. Therefore, you will see some differences in the budget request in that area.

We cut back TAA, but not cutting it back to imply, we do not care about those workers. It was really members of the Senate who pushed EDWAA forward, a whole new program with a strong philosophical base. In other words, you do not just give somebody fish. You give them the fishing line and show them some new streams. That is what EDWAA does. Of course there is some maintenance, but there is also training; there is change.

So the philosophy in the nonmandated and important programs that have to do with OSHA and MSHA, those kind of programs, the philosophical base in the job training and in helping people is—of course there is going to be unemployment insurance. We are already seeing in programs that if it is just unemployment insurance it does not work as well as when there is job service review.

But I would say the budget also puts its emphasis on the belief in people, that if they are given the chance and they are given some training, they will want to work. That is the philosophy, a belief in the working people of America. If circumstances push them out of a job, to try and give them the chance to get another because we think they are that good. That is the driving force in that other half of the budget.

Senator GORTON. Thank you, Mr. Chairman.

Senator HARKIN. Thank you, Senator Gorton.

I just have a few other questions I wanted to cover with you, Madam Secretary.

Secretary MARTIN. Certainly.

Senator HARKIN. One being the ADA, and I appreciate your talking about that in your opening statement, and the timetable on your proposed rules of October of this year. I hope that that deadline is met.

Secretary MARTIN. You know you have my commitment to try. And once it has been said publicly it makes it pretty sure you are going to give it your all. If we do not meet that commitment, I suspect I am going to hear from the Chairman of the Committee on Appropriations.

Senator HARKIN. But I know of your deep feelings about this legislation also, so there is no problem there.

I did want to cover one thing, though, and that has to do with providing technical assistance under the Americans Disabilities Act. I had written you a letter. Where is my letter? Just a minute here. Anyway, I had written a letter——

Secretary MARTIN. I believe you. [Laughter.]

Senator HARKIN [continuing]. About using the Department of Labor to fulfill the technical assistance. I am sorry, this was a letter that I had written to the President. Sorry about that. Wait a minute. Oh, I am sorry, I am sorry. I am getting apples and oranges mixed up. I had written the letter, but I submitted a question to you on the confirmation hearing in writing.

Secretary MARTIN. And we answered it, sir, I think.

Senator HARKIN. Yes; and this had to do with the section 506(b) in providing technical assistance. It says, basically, the attorney general may obtain the assistance of other agencies in providing technical assistance. Then it says, it may include several agencies, including the Department of Commerce. It does not specifically mention the Department of Labor. But it does not say, limited to these agencies. It may include these others.

And I admit to you it may have been somewhat of an oversight on our part not to have included the Department of Labor. But the language itself, in the law, in section 506(b) does not limit the number of agencies. It just says, "may include." It just did not specifically mention Department of Labor.

In looking at this—and I will admit it may have been an oversight on our part—oh, yes. It states that such other agencies include the National Council on Disability, the President's Committee on Employment of People with Disabilities, the Small Business Administration, and the Department of Commerce.

Quite frankly, your Department has a long history of providing this kind of technical assistance, and while we may not have specifically included you, you are not excluded. And I would hope that you would take a strong leadership position of going ahead and providing that kind of technical assistance which you have a long history of providing.

Your response to my question at the confirmation hearing, which was submitted in writing, basically just reiterated that it did not include the Department of Labor. And so what I am saying to you is that it is not exclusionary. I would hope that you would provide that kind of assistance, and, again, under 503 you have done that for a long time.

If we gave the Department money to provide technical assistance, could you come up with a workable plan in coordination with EEOC and Department of Justice to provide the technical assistance to the contractors that you have experience working with?

Secretary MARTIN. Well, Mr. Chairman, the Department will always obey the mandate of Congress. You know if we are told to do something, we will do it. We are working under some budget constraints. But you are absolutely right. We are not precluded and we will attempt to do everything we can. It is in the Nation's best interest to have such able people as those covered under the ADA in the work place, so we want it to work. There is no question about that.

Senator HARKIN. I appreciate that. Well, again, we can go back and try to amend the law and put in that little phrase, Department of Labor, but——

Secretary MARTIN. Well, it might be helpful. I am not familiar with what you have sent to the attorney general or to the President. But certainly, the attorney general, based on my conversations with him about some other areas where we wanted to have some mutual work, would be interested in hearing that. And I assure you there is no reason—there is no personal reason—why we would not want to help in any way we can within the usual constraints. The important thing is to make something go. It goes back to my statement, I believe, and I could see you nodding with it. This really is not a question of turf; it is a question of getting the job done.

Senator HARKIN. In your letter to me, you stated that the Department of Justice, had not consulted with you.

Secretary MARTIN. Well, they have not yet. So perhaps maybe we could make sure a notice is sent saying we are available in case you want to consult. Because, again, they would be following the law too.

Senator HARKIN. If you would do that I would sure appreciate it.

Secretary MARTIN. I do not have a problem with that. Done. We will send you a copy. Would you like a copy?

Senator HARKIN. Just send it over and say, look, we are not included, but we are not excluded, we have a lot of experience in this area under 503 for 20-some years, and we would be glad to help and provide that kind of assistance. And I would like to work with you perhaps and see what we might have to do to put it in.

Secretary MARTIN. I'll be glad to. But would you like a copy of that letter too?

Senator HARKIN. All right. Well, I will give it to Senator Specter, and when he is on judiciary committee then he can go. [Laughter.]

One other thing. OK, shifting from that.

Secretary **Martin**. Yes.

### FUNDING FOR OLDER AMERICANS PROGRAM

Senator **Harkin**. The proposed cut in jobs for older Americans.

Secretary **Martin**. Yes.

Senator **Harkin**. There is a—your budget calls for $47.5 million reduction for the Senior Community Service Employment Program. Now, I know as a former Member of Congress you have worked with that in your district, I am sure, just like I have in mine in Iowa. And I can say without any hesitation that every place I have seen it work the elderly people who are involved in it love it.

It gives them a chance to work with people and get out of their homes. We have actually seen, I think, a cutback in things like food stamps or Medicaid, other types of assistance that they might get because they have this type of employment. Well, here is what happens. Now, $47.5 million reduction is a 12.2-percent cutback, translation to 7,844 fewer jobs for low-income older Americans. In Iowa this would mean the number of jobs would decline by 102, from 839 to 737. Anyway, that is what my data says.

Again, to repeat what I said earlier, this enables elderly persons, low-income elderly, to help themselves. They help others in the community. We have statistics showing that there has been a cutback in other public assistance costs and ask if you have any data on that, if you could provide some estimate. In other words, these are low-income elderly who otherwise might be on SSI, Medicaid, food stamps, other kinds of public assistance programs. But because they have this, they are not on those programs.

So I am wondering if by cutting back on this we might not be increasing outlays in other areas, in addition to losing the sort of social integration you get when the elderly are working. They feel better about themselves, they are out of the house, that kind of thing. So I am really concerned about this cutback.

Secretary **Martin**. Right. Again, just to put the numbers in perspective, we are asking for the same amount as we did in 1991. So then one can argue what is a cut and when is a cut not a cut. But for a moment, putting those arguments to the side, we do not have empirical data. We might have some anecdotal data, but we do not have specific data available on that. We have made the best judgments we can on this budget. There are many of these programs that those in them and those who work on them would tell you work well. But there are limitations within the budget constraints passed by the House and Senate. This is what we believe is the best combination. Now, your subcommittee and indeed the full committee will make your judgments too.

Senator **Harkin**. Could you help us out? Would you have the ability—or maybe some of the people sitting at the table with you would be able to answer this better—the ability to give us some estimate on how much public assistance costs might be increased from this cutback? Is there any way of compiling any data on that at all? You see what I am talking about?

Secretary **Martin**. I see what you are talking about. I do not know the answer.

Mr. **Komarek**. I think that would be very, very difficult to do in the short-run. I think that is the kind of project that would take a considerable length of time to do and some study, because of the complexity of the issue.

### OLDER AMERICANS DATA

Senator **Harkin**. In this program—now here is where I would like a little knowledge. In this program—when a person signs up and is paid under this program, are there any records kept at the local offices as to whether or not they were on some kind of assistance?

Mr. **Jones**. No, Senator, there is not.

Secretary **Martin**. Can you even ask?

Mr. **Jones**. No.

Secretary **Martin**. We might be even precluded from asking that.

Mr. **Jones**. Some of those questions we cannot even ask, although I understand the basis of your question. By definition, they are low-income, so one would assume there may be some connection, but we would have to go case by case to determine whether they in fact went back or were on food stamps or SSI or anything else. There is no direct connection.

Senator **Harkin**. Yes; make sure we are talking about the same thing. You are right. The request this year is the same as your request last year. We upped it last year.

Secretary **Martin**. That is correct.

### POSSIBLE FUNDING OFFSETS

Senator **Harkin**. So it is a cutback from what we put into it last year. Let me ask you this. The staff informs me that there is $100 million unused summer youth employment funds carried over from 1991. Would you support using those funds to restore this cut?

Mr. **Jones**. That is the figure that was put into the budget and pointed to as a potential offset if it was needed for the $100 million unemployment insurance supplemental we asked for. In fact, if the committee, in its whole process, not just on UI, is looking for offsets, obviously that situation is there. To claim that money, you would have to rescind it from the system in order to bring it back into the budget count.

Senator **Harkin**. Yes; we might want to—we might want to claim that.

Secretary **Martin**. Just a note of caution. It can only be claimed once. If we use it somewhere, it cannot be used somewhere else by the next subcommittee.

Senator **Harkin**. I understand.

Secretary **Martin**. I try to keep my testimony constant. Otherwise, it makes it a little more difficult.

Senator **Harkin**. A policy question.

Secretary **Martin**. Yes, sir.

## EDUCATION AND TRAINING

Senator **Harkin**. I talked in my opening statement about this—this study "America's choice," and the fact that other nations invest more in work force training. Employers in other countries do much more. Perhaps our employers are not keeping up their investment in work force training: A policy question. Has it come time to require employers to set aside a certain percentage of their payroll for education and training of their workers?

Now, before you answer that, again, you pointed out something I did not know, that people now will change jobs, what, up to six times in their lifetimes.

Secretary **Martin**. Careers, not just jobs.

Senator **Harkin**. Oh, it is careers six times. So again, that is not like it was 30 or 40 years ago, and so if this is what we are looking at, perhaps we need to provide a set-aside just like we set aside unemployment compensation, things like that right now, workmen's compensation, all that kind of stuff. Perhaps we ought to set aside a certain percentage for education and training.

## NEW YORK PORT AUTHORITY

Secretary **Martin**. Your question is, are we ready, and the answer is no one is totally sure exactly what works. I think what might be better, rather than talking about what we should mandate employers to do to make them even less competitive, is how do we make sure our proposal seems so attractive that it gets done. It is in an employer's long-term and short-term best economic self-interest to have a fully trained work force. What would surprise you, Senator, is that employers really are beginning to hear this message. Just for a moment, rather than talking about what we should mandate doing, I wonder if you would let Secretary Jones tell you about a meeting with the New York Port Authority that he went to last week. I find it fascinating, as I think you will.

Mr. **Jones**. I think you have put your finger on it, Mr. Chairman. It is a significant change here that employers are beginning to figure out themselves how to move this from a cost to an investment. And the whole structure, both of the tax system and their whole management system, continues to look at training as a cost rather than in investment. New York Port Authority employs thousands of people in probably every occupation that you and I can imagine. Their necessity is to step beyond bureaucratic structure and begin to work with unions and businesses and the schools to link the three, not just for what goes on in the work place, but also in the schools, the work system, and the education system. It really is bizarre that there in that labor market, as you both have mentioned, we have unemployment at very high rates and we have jobs in almost every occupation going unfilled because of the lack of skills and the lack of investment in the structure.

The second part of the issue that they are dealing with which we find in every one of these discussions is that training can no longer be functional training. We cannot keep training people to do a thing. If they are going to change as many times as you and the Secretary indicate, people have to be prepared to be adaptable and flexible so companies do not just remove them and then hire a new work force or try a one-time fix. This is a significant change.

The issue is whether we use tax credits or training funds for people to make an investment and to increase funding above the current 1 percent of payroll, which is the general American experience. Resolution of this issue will require a joint effort of the American Society for Training and Development and probably even more groups than the Secretary and I could even mention today. This issue will get significant research and insight this next year.

Secretary MARTIN. That is why I find this an incredibly fascinating job. I mean, this is the future, Mr. Chairman. We are talking about change in the best sense of the word.

### BASIC SKILLS

Senator HARKIN. I know, and there is always the question you do not really know what works. What may work one place—but may I submit one thought? The basics always work. Knowing how to read, knowing how to write, knowing how to speak—these basics always work, I do not care what job it is. And I—again, just from my own limited viewpoint and having chaired this committee now a few years—been on it now for 6—in looking at these issues, many times it is only functional training, like you say. You train someone functionally.

And I can understand the business aspect of it. They are meeting the bottom line. They do the functional training. And if it changes then they move them out and the train someone else functionally. And there is not much thought given to the basics. So somehow this has got to be put back into the work place.

I had talked a couple years ago about requiring this and using tax incentives to do it. That is the stick; the carrot is the tax incentive. Because it is a national problem, we need to require that, for those people who are hired for minimum wage jobs or within 150 or 175 or whatever percent of the minimum wage, that there be a component to that job of every day the employer requiring certain basic skills training; reading, writing, things like that.

Because this is especially true of entry-level jobs, where young people are going—and I have done a few little tests myself at some of these establishments. You know that these are some—not all the time—but many times, functionally illiterate people working there. Well, anyway, that is just a thought.

Secretary MARTIN. It is an exciting thought, though, and I think you will want to read the SCANS report. This is a product of the Department due early in the summer, which is going to address the workplace and——

Senator HARKIN. SCAN?

Secretary MARTIN. SCANS, S-C-A-N-S. It is the Secretary's Commission on——

Mr. JONES. Achieving Necessary Skills.

Secretary MARTIN. Yes; Secretary's Commission on Achieving Necessary Skills. One of the important parts of SCANS is looking at what we need nationally. That does not mean we are going to necessarily agree on everything. But starting the intellectual ferment, making sure the discussion takes place here and everywhere throughout America is going to be part of the change, and I look forward to working with you, Mr. Chairman.

Senator **Harkin**. That is coming out this summer?

Secretary **Martin**. Yes; we will make sure you get a copy.

Senator **Harkin**. I appreciate that. It was just a policy question, but do you have anything else to add, Madam Secretary? I appreciate your spending the time. I will submit the rest in writing.

Secretary **Martin**. Thank you.

### JTPA OVERSIGHT

Senator **Harkin**. I had one question on oversight of job training programs. We have gotten a lot of incoming fire on fraud and abuse in job training and oversight of job training and people abusing the system. I will just submit that one in writing.

Secretary **Martin**. Thank you. One of the things—I am going to note that I think the amendments will make some difference—is that some of the information you are getting is actually coming from the Department of Labor.

Senator **Harkin**. I am sorry.

Secretary **Martin**. Some of the information is actually coming from the Department of Labor. We are carefully examining these and making sure our inspection system is up to snuff, and that is helping us find out what these amendments should be. I want to assure you that we want the system to work, and it will only work if it is carefully examined and holds to the standards we all would want it to.

Senator **Harkin**. Thank you, Madam Secretary.

Secretary **Martin**. Thank you.

Senator **Harkin**. I see that our distinguished colleague from Arkansas has joined us.

Senator **Bumpers**. Madam Secretary, with your indulgence, I will submit my questions. Colin Powell is a big hero; I had to go out and talk to him first.

Secretary **Martin**. I would never mind taking second place to the chairman of the Joint Chiefs of Staff.

Senator **Harkin**. I suppose that is where all the cameras are, right, Senator Bumpers? [Laughter.]

Senator **Bumpers**. Look for all the politicians and then you will know where the cameras are. [Laughter.]

Madam Secretary, I will submit a few questions to you in writing.

Secretary **Martin**. Thank you.

Senator **Bumpers**. You can respond at your leisure.

Secretary **Martin**. Thank you, and thank you for stopping in.

I understand that—and I am sure I fall into this category—people do not always like testifying. I must tell you, I think the dialog is just really good for me, and I hope it is useful for the Members of the House and Senate. Thank you for asking me.

Senator **Bumpers**. How does it feel to be sitting on the other side of the table?

Secretary **Martin**. Not bad, Senator, if you want to know the truth. [Laughter.]

I want to tell you that each morning when I wake up—I found that true when I was in the House too—but I am so excited to go to work. I just want to make things better. So I am very grateful to the President and to the Senate for making it happen, especially to Senator Simon, without whose help I could not do it. [Laughter.]

Senator BUMPERS. Since we are just philosophizing, if I were going to make a criticism of Members of Congress in these hearings, it seems to me that people on this side of the table are often unnecessarily combative and confrontational. And I suppose that comes from maybe a desire for publicity or camera, sound bytes, or whatever.

But we are really here to try to elicit information on which to make decisions. And I have never thought those attitudes ever served any useful purpose. It does not cost anything, it just means I am going to be nice to you. I am not like those other guys. [Laughter.]

Secretary MARTIN. Well, all your colleagues on the subcommittee this morning followed that excellent advice you just gave. They were very congenial. I found it not just useful, but also very good to be here.

Senator BUMPERS. Thank you, Mr. Chairman.

Senator HARKIN. Thank you, Senator Bumpers. Thank you, Madam Secretary.

Secretary MARTIN. Thank you.

## QUESTIONS SUBMITTED BY THE SUBCOMMITTEE

Senator HARKIN. There will be some additional questions from various Senators which we will submit to you for your response.

[The following questions were not asked at the hearing, but were submitted to the Department for response subsequent to the hearing:]

# QUESTIONS SUBMITTED BY THE SUBCOMMITTEE

## WOMEN IN THE WORKFORCE

Question: The glass ceiling project focuses efforts on only a small number of women who have reached the top levels of their profession. What can the Department do to expand this project to enhance the mobility and opportunity of all women workers so that they are fairly considered for promotion at all levels?

Answer: The "glass ceiling" project is intended to insure that women and minorities meet no barriers to moving from entry level jobs to middle management and up -- as high and as far as their talents and abilities take them. The project is just one of several efforts of the Department to ensure equal employment opportunity for women at all levels. OFCCP has at least three other activities underway designed to enhance the employment opportunities for women through affirmative action:

1. Routine compliance reviews: OFCCP conducts between 5,000 and 6,000 compliance reviews each year. A focus of every one of these is to determine that there are not barriers to the advancement of women and that the contractor is making good faith efforts to take affirmative actions to ensure equal employment opportunity.

2. Women in nontraditional jobs: The Department has been examining the barriers and opportunities for advancement of women in the construction and aerospace industries. The two task forces are making specific recommendations to improve the affirmative action compliance of these two industries.

3. OFCCP and BAT joint enforcement: The OFCCP and the Bureau of Apprenticeship and Training will join forces to improve the enforcement of the equal employment opportunity requirements of 29 CFR Part 30 for apprenticeship programs. These two agencies will draw upon the expertise and experience of the Women's Bureau to enhance the affirmative action results of these efforts.

The "glass ceiling" project is only one part of our total enforcement strategy designed to enhance the employment opportunities for women as well as minorities, individuals with disabilities and Vietnam era and disabled veterans at all levels of employment.

## EFFORTS TO PROMOTE NONTRADITIONAL TRAINING FOR WOMEN

Question: What efforts will the Department undertake to promote nontraditional training efforts for women to address the continued occupational segregation of women in traditional female training and jobs?

Answer: The Department is in the early stages of launching a multi-faceted initiative to help women gain access to the skilled trades. The Bureau of Apprenticeship and Training (BAT), the Office of Federal Contract Compliance Programs (OFCCP), and the Women's Bureau have been charged with developing and implementing an aggressive program to increase the recruitment and retention of women in apprenticeship programs in the skilled trades. Through this initiative, the Department hopes to remove the barriers prohibiting women not only from entering, but also from successfully competing in the skilled trades once employed.

The initiative contains four major components: enforcement, education and technical assistance, recruitment, and retention. Increased enforcement of laws protecting equal opportunity in apprenticeship for women will be attained by granting enforcement authority to the OFCCP in addition to normal enforcement efforts by BAT. This action will strengthen equal opportunity employment review due to the additional resources available at OFCCP.

In the area of education and technical assistance, the Department: (1) will, through the Women's Bureau, publish a Directory of Non-traditional Training and Employment Programs for Women, listing by State the various programs and organizations that assist women in obtaining skilled, non-traditional jobs and related training; and (2) will, through its Workforce Quality Clearinghouse, operated by the Women's Bureau, list pre-apprenticeship and apprenticeship programs for women and "how-to" curriculum guides to assist those who wish to establish their own in-house programs.

Enhanced recruitment of women into the skilled trades will be attained through the coordinated efforts of BAT and the Job Corps program, with a particular emphasis on preparing and referring female Job Corps participants into apprenticeship opportunities.

In order to encourage retention and placement of women in skilled trades, the Department will undertake a number of activities, including: (1) the development of a manual for tradeswomen outlining rights and ways to deal with infringement of rights, a set of policy guidelines for employers and a set of policy guidelines for unions; and (2) the establishment of the WIN (Women in Non-traditional Jobs) Award in the Women's Bureau to recognize successful programs and individuals in non-traditional jobs.

## OVERSIGHT OF JOB TRAINING PROGRAMS

Question. As probably everyone knows, through recent reports of the Department's Inspector General, there are grave concerns about job training program operations, especially at the local level. Money set aside for job training is allegedly not getting to those who are most in need of training. Instead, funds are being lost to unnecessary and unreasonable procurement, service provider profits, and duplication of services.

For example, according to Inspector General reports, job training money went to purchase $640,000 worth of equipment that was not used for program participants, as in the case of one university; or it went out as reimbursements of almost $700,000 for placing merely 8 people into longshoremen jobs, as in the case of a west coast program.

Are these isolated cases of fraud, or is there some systematic problem that needs to be fixed?

Answer. The incidents are isolated. In a program as large as JTPA, whose funding since its inception through the current program year totals over $24 billion, there are bound to be some questioned costs. Despite sensational reports to the contrary, abuses are not widespread and the disallowed costs are taken seriously.

When problems are identified either through ETA's regular oversight and monitoring activities, an OIG audit or any other means, immediate action is taken to correct the situation. In the three areas cited in the question, several actions have been taken by ETA to correct deficiencies.

## PROCUREMENT

- We proposed amendments to JTPA which would have addressed issues concerning contracting and procurement. Although the amendments were not enacted, another proposal is currently being formulated. If included in the new package, these provisions would strengthen JTPA's fiscal integrity and would be a significant step forward for us in bringing an orderly and uniform approach to procurement practices in the JTPA system.
- Since the amendments to JTPA were not enacted by the 101st Congress, and we were anxious to act quickly to correct program deficiencies, we decided to move ahead on regulatory reforms and published an Advanced Notice of Proposed Rulemaking (ANPR) which includes provisions on procurement.

## PROFITS

- The ANPR also contains a program income requirement that would specify that income under a program administered by a public or private non-profit entity may be retained by the entity only to continue to carry out the program, and the conditions under which such income may be used. Each entity would be required to maintain records sufficient to determine the amount of income received and the purposes for which it was spent.

## DUPLICATION OF SERVICES

- JTPA statutory provisions call for coordination of services and activities and linkages of resources to maximize the effective delivery of employment and training and to avoid duplication of effort and expenditures caused by the establishment of separate, independent and competing program structures. Evidence of appropriate coordination between programs would include the co-location of staff, the sharing of program resources, and the enrollment of all individuals served into both programs' management information systems.

In addition to the above actions, ETA has strengthened regular oversight activities and is ensuring that the States are conducting ongoing monitoring and oversight activities of the Service Delivery Areas (SDAs). We have also recently conducted a series of special oversight reviews in approximately 50 percent of SDAs in procurement and on-the-job training, and we are finalizing plans to review the remaining 50 percent. Corrective action plans have been put in place to address findings. All findings have either been resolved already, will be resolved soon, or were referred to the OIG for investigation. Finally, the ANPR would require each State, administrative entity and recipient to monitor the performance of service providers.

We have not been able to identify the audit cited concerning reimbursements of almost $700,000 for placing 8 people into longshoremen jobs. We have contacted the Office of the Inspector General and they were not able to assist us in identifying this audit. We would be pleased to respond if further information could be provided.

The other audit cited concerns misuse of JTPA funds by the Louisiana Department of Employment and Training. The Final Determination on this audit, which questioned a total of $1,042, 882, was issued by ETA in October 1990 and disallowed $993,368 ($617,457 in equipment costs). The State has remitted checks to us totalling $533,340 related to the equipment cost disallowance. The State has appealed the final determination to the DOL Administrative Law Judge. Until this process is complete, further funds will not be recouped.

Question. I understand the Labor Department is proposing regulatory changes to tighten oversight of job training programs, along the lines of legislation submitted last year. Will regulations be sufficient, or will legislation still be needed?

Answer. We believe that many of the requirements to improve the administration and program integrity of JTPA can be accomplished through the regulatory process. However, there are specific matters which will require legislative change. Including these provisions in the statute would reinforce our ability to require SDA and State compliance.

## HEALTH CARE FRAUD

Question. With the extremely high cost of health insurance today, the average American small employer is turning to self-funded insurance plans commonly known as "multiple employer welfare arrangements" or MEWAs to provide coverage for his or her employees. These are often an excellent response to meeting employees' health insurance needs. However, criminal investigations by the Department's Inspector General's Office have found that an alarming number of these arrangements are fraudulent.

Typically, the perpetrators of these fraudulent schemes generate millions of dollars in monthly premiums from unsuspecting small companies and their employees. They pay some small claims and defer the major claims while embezzling the premium revenue. State regulation and civil enforcement actions against these frauds have proved ineffective in the past because there is no clearly orchestrated Federal enforcement program and because the criminals and the assets move quickly from state to state.

The consequences to the thousands of employers and their workers who are held personally liable for unpaid medical bills, which they had every good reason to believe were covered, are tragic. Just last December, operators of a fraudulent MEWA were charged with embezzling $21 million which left more than 1,300 families without health insurance coverage. Victims of that fraud include the parents of a three-year-old who suffers acute leukemia. They face paying $250,000 for treatments they believed were insured. In addition, many participants are left with pre-existing health conditions that preclude future health coverage.

Clearly, something needs to be done. What are your plans to address this costly and devastating problem?

Answer. The Department believes that few, if any, MEWAs are themselves ERISA-covered "employee welfare benefit plans". If a MEWA is not an ERISA-covered plan, the arrangement is not directly governed by ERISA. However, even if the MEWA itself is not a covered plan, each employer or employee organization which utilizes the MEWA to provide health benefits for its employees or members, generally, would be considered to have established a separate, single-employer plan subject to ERISA. Where a MEWA holds assets of such individual plans, the promoters receiving, managing and disposing of these assets are fiduciaries under ERISA and subject to ERISA's fiduciary responsibility provisions, with respect to which the Department does have investigative and enforcement authority.

1. We are pursuing a vigorous enforcement program. Investigations into the operation of MEWAs to ensure that they are operated in accordance with ERISA requirements are a priority under PWBA's "significant issue" enforcement strategy. That strategy directs 50% of field investigative resources to investigations of financial institutions that act as fiduciaries to employee benefit plans and service providers to employee benefit plans.

As of December 31, 1990, we had 60 investigations pending with respect to MEWAs. Last year at this time the Department had 30 ongoing investigations. With the increase in PWBA's field enforcement staff, PWBA expects to be able to continue to devote significant resources to investigations of MEWAs.

2. We are working closely with state enforcement agencies. As part of the Department's enforcement activities relating to MEWAs, representatives from PWBA field offices met personally with representatives from 36 state insurance departments during 1990 to

discuss areas of mutual concern, and share information concerning ongoing or potential MEWA cases. The remaining state insurance departments were contacted by letter or telephone to pursue cooperative arrangements with appropriate state agencies. Through these arrangements, PWBA's Area Offices share and discuss cases opened and closed by PWBA involving MEWAs, as well as make available to state regulators documents and information obtained in PWBA investigations.

For example, PWBA's Boston Area Office has shared investigative files and provided information regarding various insurance companies and MEWAs with many different states. This assistance, at least in part, enabled the states of North Carolina, Delaware, Georgia, California, and Colorado to revoke or suspend the certificate of an insurance company and enabled three other states to place the insurer under financial review. PWBA field offices continue to maintain contacts with their respective state insurance agencies in order to coordinate investigative activities involving MEWAs.

Most recently, the Assistant Secretary for Pension and Welfare Benefits, and other PWBA officials, met with the President and Vice President of the National Association of Insurance Commissioners on February 6, 1991, and discussed issues related to state and federal regulation of MEWAs.

3. We are participating in regional meetings and training sessions for staff of interested state and federal agencies. PWBA has also participated in various regional symposia on MEWAs and ERISA for the staffs of interested state and federal agencies, including a national conference on insurance fraud sponsored by the U.S. Attorney for the Northern District of Georgia's Law Enforcement Coordinating Committee. PWBA's Los Angeles and San Francisco offices participate in the State of California's Multiple Employer Trust (MET) taskforce quarterly meetings. These meetings have enabled field managers from these PWBA offices to discuss ongoing MEWA issues with state insurance departments from a number of states, including California, Washington, Utah, Idaho, Nevada and Alaska, as well as other federal agencies. Other meetings attended by PWBA field managers include meetings held by the Central District of California Working Group on Employee Trust Fund Fraud and an Insurance Fraud Symposium sponsored by the Texas State Board of Insurance.

4. We are expediting review of advisory opinions requests from states. PWBA has also played a significant role in increasing communications with the states on interpretive issues concerning MEWAs. Since January 1990, PWBA has processed over 36 MEWA related advisory opinion requests. PWBA is providing expedited review of advisory opinion requests from states on the issue of whether a particular entity is a MEWA for purposes of the exception to ERISA preemption of state regulation. The processing of MEWA advisory opinions is a high priority for PWBA.

PWBA also distributes, on a quarterly basis, copies of all advisory opinions concerning MEWAs to the insurance commissioners of each state. Copies of advisory opinions are, upon issuance, furnished to the National Association of Insurance Commissioners, which, in turn, disseminates the letters through their information service which provides on-line information to the states with respect to MEWAs subject to cease and desist orders.

5. We are providing technical assistance to states. PWBA is also preparing technical assistance materials designed to assist the staffs of state agencies with respect to MEWAs and ERISA issues.

In addition, to the forgoing, the Department has filed amicus briefs in two cases in an effort to assist the state in exercising their jurisdiction over MEWAs.

6. We are obtaining data regarding the characteristics of MEWA arrangements. The Department is also taking measures with respect to obtaining additional data regarding MEWAs. The Department has contracted with an outside contractor to perform research which will provide an estimate of the numbers of MEWAs, the number of employer groups participating in MEWAs and the number of individual employees covered under such arrangements. We expect this research to provide PWBA with helpful data for policy formation.

Question. Would you support legislation to require registration for Multiple Employer Welfare Arrangements with the Department of Labor?

Answer. During the last Congress, the Department proposed an amendment to ERISA to require all MEWAs to file an annual registration statement with the Department of Labor. This amendment was part of a legislative package to enhance ERISA enforcement.

I expect to re-propose legislation to strengthen the enforcement provisions of ERISA. I am currently reviewing the specific elements of the proposal to determine whether any modification should be made in the Department's proposal.

Question. Do you think such legislation would be an adequate remedy?

Answer. A registration statement would provide the means for closer regulation of MEWAs to deter abusive practices and provide assistance to the states in policing MEWAs without the problems that federal licensing and certification of MEWAs would create.

Included in the proposal is a requirement that the filer certify that a copy of the registration statement has been sent to the insurance commissioner of each state in which the MEWA conducts business or intends to conduct business during the following year. Registration would help state insurance commissions assess the level of MEWA activity in their states and to take appropriate and timely regulatory action. Willful failure to file by a trustee or other responsible person would be a violation of ERISA section 501. Criminal penalties under section 501 include imprisonment up to one year, a $5,000 fine, or both, and in the case of business entities, a $10,000 fine.

Furthermore, under section 411 of ERISA, any person convicted of such a violation would be barred from virtually any relationship with an employee benefit plan for a period of 13 years after the end of conviction or imprisonment, whichever is later. Criminal penalties for violation of this provision consist of imprisonment of up to five years or a fine of up to $10,000 or both. As previously noted, the MEWA registration proposal is being reviewed, as part the Department's legislative package to enhance ERISA enforcement.

## ABUSE OF TARGETED JOBS TAX CREDIT PROGRAM

Question. The General Accounting Office has found that more than half of employers participating in the Targeted Jobs Tax Credit (TJTC) program take advantage of the tax credits without making special efforts to hire members of the target groups -- such as disadvantaged youth and welfare recipients. This report would seem to indicate that more than half the $4.5 billion given out in tax credits over the past ten years may have been wasted. Why should employers be allowed to get tax credits for hiring TJTC eligible workers they normally would have hired anyway?

Answer. By receiving a tax credit, the employer may be motivated to retain target group employees longer than they ordinarily would and give them more of an opportunity to gain valuable work experience or become permanent employees.

Question. Should we amend the law as GAO suggests, to require employer outreach efforts, or additional training or supervision, as conditions for getting tax credits?

Answer. Amending the law to increase training, supervision and outreach efforts will result in significantly higher administrative costs which may not make major improvements to the program, and would also place burdens on the employer community, unnecessarily complicating the program and discouraging employers from participating.

## NEED TO EXPAND DISLOCATED WORKER ASSISTANCE

Question. According to the Bureau of Labor Statistics, there were more than 4 million dislocated workers in the last 5 years. While annual statistics are not available there is evidence the number of dislocated workers is rising. While many of these will not need job retraining, the Federal Dislocated Worker program now serves fewer than 300,000 persons annually and only about 1 million people were served over the last five years. As we have already discussed, unemployment is expected to exceed 8 million this year.

In the last year, bankruptcy filings skyrocketed, which usually signals a significant increase in layoffs. In my home State of Iowa, the Employment Service has reported a significant rise in plant closings and mass layoffs, resulting in a full one percent rise in unemployment during the month of February. Yet the administration is proposing to cut existing services.

Programs Assisting Dislocated Workers

| | FY 1991 Enacted | FY 1992 Request | 1992 vs. 1991 Change |
|---|---|---|---|
| JTPA Dislocated Workers | 526,986,000 | 476,986,000 | (50,000,000) |
| Clean Air Act | --- | 50,000,000 | 50,000,000 |
| Defense Authorization Act | 150,000,000 | --- | (150,000,000) |
| Subtotal, JTPA | 676,986,000 | 526,986,000 | (150,000,000) |
| Trade Adjustment Assist. | 269,000,000 | 1/<br>62,000,000 | (207,000,000) |
| Employment Service 2/ | 884,555,000 | 836,899,000 | (47,656,000) |
| Total | 1,830,541,000 | 1,425,885,000 | (404,656,000) |

1/ Represents phase-out costs; the budget actually requests $226 million based on current law, but would rescind $164 million once repeal is enacted.

2/ Serves all unemployed persons, not just dislocated workers.

Is this the proper time to be cutting Federal assistance to dislocated workers?

Answer. If the President's budget request is approved, funding for the JTPA dislocated worker program in 1992 would equal the 1991 level. The Department believes that the requested funding level for assisting dislocated workers is sufficient to meet projected needs, given limited Federal resources and the need to eliminate duplication of services. For Program Year 1991 which begins on July 1, 1991, and runs through June 30, 1992, Title III of the Job Training Partnership Act will grow from a current funding level of $463 million to $527 million, or almost 14 percent. The budget request for 1992 seeks to maintain that total funding level of $527 million, earmarking a portion of those funds for services to be provided to workers dislocated as a consequence of requirements under the Clean Air Act.

Projections indicate that the current downturn in the economy will be mild and short-lived. In fact, displaced workers who are likely to return to their jobs when economic activity picks up are not eligible for JTPA Title III services. The Department of Labor is making its request in an effort to ensure the availability of high quality services for eligible dislocated workers across the country without regard to the cause of their dislocation.

Question. What is the rationale for eliminating the Trade Adjustment Assistance program, without an offsetting increase in the JTPA Dislocated Worker Assistance program?

Answer. The Administration believes that the assistance provided under the Economic Dislocation and Worker Adjustment Assistance Act (EDWAA, or Title III of JTPA) is a much more effective, equitable, and cost efficient approach to meet the needs of dislocated workers. Repeal of the Trade Adjustment Assistance (TAA) provision of the Trade Act of 1974 would eliminate a costly entitlement program which singles out one set of dislocated workers for special treatment and has a much lower job placement rate.

## MCKINNEY ACT HOMELESS PROGRAMS

Question. Your budget proposes to transfer homeless job training programs to the Department of Housing and Urban Development. Why was this decision made, when just last December, GAO reported that HUD is not adequately monitoring its McKinney Act homeless programs while the Labor Department is?

Answer. The Administration has decided to consolidate McKinney Act homeless responsibility and funding into a smaller number of innovative demonstration programs that will fund local programs to develop comprehensive service strategies that hold promise of helping people to leave homelessness.

I am pleased that GAO has recognized the good work we have done in monitoring our two McKinney Act homeless programs. We are working closely with the Department of Education and HUD in the overall planning and implementation of HUD's proposed new demonstration program, including how the program will be monitored.

Question. Haven't your labor Department homeless job training programs been effective?

Answer. Yes, these demonstration programs have been effective in assisting homeless persons to become more economically self-sufficient through employment and upgraded housing. To illustrate, in ETA's Job Training for the Homeless Demonstration Program, after two years of program activity (as of September 30,1990), approximately 10,800 clients have received training and 5,400 have been placed in unsubsidized jobs. Approximately 40% of those placed in jobs were employed 13 weeks later. Moreover, the Administration believes these programs could be improved if offered as part of a comprehensive plan to attack the causes of homelessness.

## CUT IN EMPLOYMENT SERVICE OFFICES

Question. Over the next decade, there will be a growing shortage of skilled workers to meet employer needs. In my own State, employers are coming to the Employment Service in greater numbers, seeking help to cope with skilled workforce problems. The Department proposes a $55 million or 6.8 percent cut in Employment Services. Shouldn't we be building up the capacity of the Employment Service, instead of proposing cutback and staff layoffs?

Answer. The reduction to the Employment Service from the 1991 level is a result of extremely tight budgets. Critical choices had to be made on how essential increases would be funded, such as increased unemployment workloads and increased Federal and State workloads resulting from the passage of the Immigration Act of 1990. The States have complete flexibility in the use of their Employment Service resources and they choose the most effective and efficient ways in which to supply services to individuals and employers.

### JOB CORPS CENTERS

Question. You have proposed cancellation of plans to open 4 of the 6 new Job Corps centers for which the Congress has already appropriated money.

Madame Secretary, Senator Burdick and I have already written you a letter expressing opposition to this plan. Can you give us your assurance that you will not slow down activity to prepare for opening these 6 new centers?

Answer. We clearly appreciate that there is existing Congressional direction to open the four centers in question. While the Congress is considering the proposal to cancel these four centers, we will therefore continue with preliminary design work, but will stop short of purchasing real property or issuing major construction and renovation contracts. This will avoid any serious delays should Congress later decide that the Department should proceed with the four centers. Proceeding with preliminary and relatively inexpensive preparatory site work will afford Congress an opportunity to examine and act on the President's proposal.

### ADA TECHNICAL ASSISTANCE

Question. Do you believe a technical assistance plan for carrying out the Americans with Disabilities Act might also include spending some money to pull together in a manual or other document the policy decisions that you have made in individual cases under Section 503 of the Rehabilitation Act, including examples of reasonable accommodations required to be provided in particular cases?

Answer. It would be an excellent idea to include in a technical assistance plan a guide which contained the policy decisions established under Section 503 of the Rehabilitation Act. However, the enforcement of the Americans with Disabilities Act is the responsibility of the Equal Employment Opportunity Commission. We would have to defer to them any decision about technical assistance. We would be more than happy to work with them to develop such a manual or guide.

### COMPLIANCE WITH THE AMERICANS WITH DISABILITIES ACT

Question. Do you believe employers would have an easier time complying with the ADA if additional funds were provided to expand the operations of the Job Accommodation Network or the President's Committee on Employment of People with Disabilities?

Answer. Yes, that is why continued funding of the FY 1991 Congressional add-on is requested in the FY 1992 budget. The President's Committee on Employment of People with Disabilities (PCEPD) has a long history of working with the full range of subjects related to maximizing the employment of people with disabilities. Through our volunteers, we have over 600 employers, organized labor union officials, educators, rehabilitation professionals and people with disabilities involved in a comprehensive program designed to advance the nation's awareness of and understanding concerning issues facing people with disabilities in employment. Through our network of state and local committees on employment of people with disabilities in all parts of the country, we can create employer training. All together, PCEPD represents a national network of expertise in dealing with the employment of people with disabilities that can be found nowhere else.

What we know about the employment of people with disabilities can materially assist those employers, professionals and people with disabilities attempting to respond to the challenges of Title I of ADA. Our uniqueness is in our knowledge base and capacity for developing solutions which will help all concerned answer the questions beyond the legal technical questions surrounding the requirements of the Act in "Mainstreet America" where the ADA must be implemented. For example, Title I of ADA calls for the employer to engage in the recruitment, hiring, advancement, etc. of individuals with disabilities. The law does not offer "how to" information or illustrations about these areas, the many options, examples, models and techniques, but, the President's Committee can and will with necessary funding.

With additional support, PCEPD would develop, package and market a host of informational materials, or "how to" publications, videos and brochures which would provide those seeking to respond to ADA with the added information about the employment of people with disabilities that they need before full compliance can be achieved. As well, the Committee will develop and implement "Empowerment through Employment" forums for employers, the disability community and service providers. These will provide specific "how to" action plans to states and cities.

## USE OF PELL GRANTS BEFORE JTPA

Question. The Labor Department recently proposed that students who qualify for both Pell Grants and Job Training Partnership Act (JTPA) funds be required to apply for Pell Grants before using JTPA money. This may be prudent from the Department of Labor's perspective in trying to save scarce JTPA funds, but I am not sure it makes sense from a total Federal perspective.

How much money might this save JTPA, allowing limited funds to be stretched further to serve those who don't qualify for Pell Grants?

Answer. The Administration is proposing guidance for coordinating the use of JTPA funds for participants who are Pell Grant-eligible and have been accepted into Pell-eligible training and education programs. The policy goal is to avoid duplicate and overlapping funding and to more effectively meet the individual's financial needs associated with education. The proposed guidance was developed in conjunction with the Department of Education and is consistent with that agency's policy that the Pell Grant be the foundation of a student's financial aid, to which other Federal and non-Federal sources are added.

Question. How many students receive both Pell and JTPA funds?

Answer. We do not have a specific count of JTPA participants who receive Pell Grants, but from an analysis of JTPA Job Training Quarterly Survey data, we estimate that less than 50,000 of the 3 million or so students who receive Pell Grants annually are also JTPA participants.

Question. How widespread is the practice of "double dipping", where institutions get payments from both Pell Grants and JTPA to cover more than the costs of education and training?

Answer: We do not know. In conducting a limited audit of the JTPA program funding in relation to Pell Grants during Program Years 1985 and 1986, the Labor Department's Office of the Inspector General found that in certain cases, the entire Pell award was applied to tuition costs by the school even though no reduction was made to JTPA tuition costs. It was determined that several service delivery areas had no policy or procedures for coordinating JTPA funding and Pell grants. This caused sufficient concern for the integrity of JTPA funds to warrant the development of policy guidance.

## PILOT AND DEMONSTRATION GRANTS

Question. You have about $20 million in projects under the "Pilot and Demonstration" line-item which are primarily sole-source, non-competitive contracts awarded year after year. Is it your intention to continue direct Federal support for these projects indefinitely?

Answer. Pilots and Demonstration funds finance a number of JTPA activities authorized under Title IV. The contracts to which the question refers are the multistate programs authorized by Section 451 of JTPA. Sole-source, noncompetitive awards have been used for the partnership programs with the National Alliance of Business, Human Resources Development Institute of the AFL-CIO, the Conference of Mayors, the National Governors Association and others. These agreements will likely continue. We believe these partners are essential to the effective operation of JTPA and will have an increasingly important role as JTPA is amended and programs are redesigned to better assist the disadvantaged.

Question. How do you evaluate the performance of the organizations running these projects?

Answer. Short-term and long-term objectives and tasks are structured in the statement of work through mutual agreement between the organizations and the Department. During the course of the term of the project, Federal staff monitor progress achieved in attaining the objectives and completing the tasks. Performance in the preceding year is examined most closely during negotiations on the statement of work for the forthcoming year.

Question. Provide for the record a detailed history of projects funded with JTPA pilot and demonstration funds for each of the last three fiscal years. Also, provide your plan for utilization of FY 1991 appropriations, as well as budgeted amounts for FY 1992.

Answer: The information requested follows:

## PILOT AND DEMONSTRATION ACTIVITIES
Program Year 1988

| PROJECT TITLE | FUNDING LEVEL ($ in thousands) |
|---|---|
| **PROGRAMS FOR THE HANDICAPPED** | |
| Includes activities to provide occupational training and employment assistance to physically and emotionally disabled, mentally retarded, deaf, blind and other handicapped persons. | |
| Electronic Industries Foundation | $65 1/ |
| Goodwill Industries | 527 |
| Association for Retarded Citizens | 1,194 |
| Epilepsy Foundation of America | 716 |
| National Federation of the Blind | 251 |
| Subtotal, Programs for the Handicapped | $2,753 |
| **TRAINING DEMONSTRATION ACTIVITIES** | |
| Includes activities to develop training, credentialing and apprenticeship programs; and provide placement in a variety of occupations and industries nationwide. | |
| Homebuilders Institute | $550 |
| PREP, Inc. | 670 |
| National Tooling & Machining Association | 1,029 |
| International Union of Operating Engineers | 155 |
| National Puerto Rican Forum | 568 |
| Subtotal, Training Demonstration | $2,972 |
| **PARTNERSHIP PROGRAMS** | |
| Includes activities to facilitate and promote the participation of labor and community based organizations as working partners with business and government in support of employment and training opportunities under JTPA; and to enhance business participation in programs at the State and local levels through training and technical assistance. | |
| National Alliance of Business | $6,162 |
| SER/Jobs for Progress | 1,854 2/ |
| National Urban League | 1,030 2/ |
| OIC of America | 2,812 2/ |
| HRDI | 4,045 2/ |
| 70001 Ltd | 2,777 |
| Subtotal, Partnership Programs | $18,680 |

## OTHER ACTIVITIES

Includes a variety of activities targeted to special issues and groups in need of special assistance to overcome barriers to employment and to address critical skill shortage in occupational areas. (Award recipients appear in parentheses.)

| | |
|---|---|
| Summer Training and Education Program<br>(Public Private Ventures) | $600 |
| Construction Craft Skills Training Program<br>(Homebuilders Institute) | 541 |
| Support Services to ETA Program Offices<br>(Center for Advanced Learning Systems) | 276 |
| Jobs for the Future Program<br>(Jobs for the Future) | 600 |
| Model Alternative School Pilots<br>(Los Angeles, Stockton, Wichita, Denver, Cincinnati, Newark, Detroit) | 2,800 |
| New Chance Demonstration<br>(Manpower Development Resource Corp.) | 500 |
| Workforce 2000 - Women & Working Families<br>(Women's Bureau-DOL) | 485 |
| Positive Recruitment Study<br>(Office of Asst. Secy. for Policy - DOL) | 400 |
| Study of UI countercyclical Effects<br>(Metrica) | 237 |
| Hispanic Literacy Program<br>(SER) | 500 |
| Collection Library<br>(Dimensions International) | 67 |
| Review of GATB<br>(American Institute for Research) | 258 |
| Youth in JTPA<br>(Berkeley Planning Associates) | 369 |
| ES Refocus Demonstration<br>(Mass, RI, IN, OR, WA) | 992 |
| Alternatives to Incarceration<br>(Cort Employment Project, Inc.) | 50 |
| National Registration and Automated Apprenticeable Occupations<br>(Fu Associates) | 251 |
| Elder Sports Management Industrial Inst.<br>(Lee Elder Scholarship Fund, Inc.) | 150 |
| Alternative Apprenticeship System for Small Business<br>(70001 Ltd) | 570 |

| | |
|---|---|
| Learning Enterprise (ASTD) | 50 |
| Expand-Apprenticeship to Other Industries<br>(National Alliance of Business) | 751 |
| Broaden Apprenticeship to Include Upgrading<br>(AFL-CIO Human Resources Development Inst.) | 500 |
| Apprenticeship 2000 Initiative<br>(CSR, Inc.) | 71 |
| JTPA Education Project<br>(Nat'l. Council of LaRaza) | 250 |
| Linkages to Secondary Education and Other Programs (CSR, Inc.) | 247 |
| Interactive Video Training<br>(Jackson State University) | 297 |
| Federal Bonding Program<br>(MacLaughlin Company) | 181 |
| Disabled Training and Placement Program<br>(Intern'l. Assoc. of Machinists and Aerospace Workers) | 277 |
| Into the Mainstream: Strategic Policies for Children and Families at Risk<br>(Council of State Policy and Planning Agencies) | 265 |
| Youth Training and Employment<br>(The West Philadelphia Partnership) | 56 |
| Education and Training of Disabled Veterans 3rd Nat'l Survey<br>(International Center for the Disabled) | 50 |
| Careers Match Program - School to Jobs Transition<br>(Cincinnati Public Schools) | 506 |
| Cities in Schools<br>(U. S. Dept. of Justice) | 584 |
| Youth at Risk<br>(U. S. Dept. of Health and Human Services) | 258 |
| Youth Offenders<br>(Full Employment Council) | 113 |
| Displaced Homemaker Project<br>(Mid Willametta Jobs Council)<br>(Contra Costa PIC)<br>(Bear River Associates)<br>(South Bend Employment Corp.)<br>(Tecumseh Consortium) | 250 |
| Miscellaneous (Total actions under $50,000) | 207 |
| Subtotal, Other Activities | $14,559 |
| Total All Activities | $38,964 |

1/ Partial Funding
2/ Includes PY '88 and forward funding for PY '89

## PILOT AND DEMONSTRATION ACTIVITIES
### Program Year 1989

**PROJECT TITLE** — **FUNDING LEVEL** ($ in thousands)

### PROGRAMS FOR THE HANDICAPPED

Includes activities to provide occupational training and employment assistance to physically and emotionally disabled, mentally retarded, deaf, blind and other handicapped persons.

| PROJECT TITLE | FUNDING LEVEL ($ in thousands) |
|---|---|
| Mainstream, Inc. | $360 |
| National Association of Rehab. Facilities | 309 |
| Electronic Industries Foundation | 297 |
| Goodwill Industries | 527 |
| Association for Retarded Citizens | 195 |
| Epilepsy Foundation of America | 716 |
| National Federation of the Blind | 251 |
| Subtotal, Programs for the Handicapped | $2,655 |

### TRAINING DEMONSTRATION ACTIVITIES

Includes activities to develop training, credentialing and apprenticeship programs; and provide placement in a variety of occupations and industries nationwide.

| | |
|---|---|
| Homebuilders Institute | $541 |
| PREP, Inc. | 670 |
| National Tooling & Machining Association | 1,029 |
| International Union of Operating Engineers | 155 |
| National Puerto Rican Forum | 568 |
| Subtotal, Training Demonstration | $2,963 |

### PARTNERSHIP PROGRAMS

Includes activities to facilitate and promote the participation of labor and community based organizations as working partners with business and government in support of employment and training opportunities under JTPA; and to enhance business participation in programs at the State and local levels through training and technical assistance.

| | |
|---|---|
| National Alliance of Business | $470 1/ |
| SER/Jobs for Progress | * |
| National Urban League | * |
| OIC of America | * |
| HRDI | * |
| 70001 Ltd | * |
| National Council of La Raza | 305 |
| Subtotal, Partnership Programs | $775 |

### OTHER ACTIVITIES

Includes a variety of activities targeted to special issues and groups in need of special assistance to overcome barriers to employment and to address critical skill shortage in occupational areas.

| | |
|---|---|
| Youth Opportunities Unlimited Planning Grants (Includes $75,000 grants to 14 cities) | $1,050 |

| | |
|---|---|
| Making The Grade (HHS/Nat'l. collaboration for Youth) | 119 |
| Summer Training and Employment Program (STEP Public/Private Ventures) | 600 |
| PIC Partnerships for Serving Displaced Homemakers (North Central Missouri College) | 50 |
| Project Entry-Homes of Oakridge (Iowa Dept. of Economics Development) | 145 |
| ADP Support for UI Demo Projects (Orkand Corp.) | 177 |
| Women in the Building Trades (Office of Mayor, Boston) | 74 |
| New Chance Demonstration (Manpower Demonstration Research Corp.) | 600 |
| Basic and Occupational Skills in the Workplace (U. S. Dept. of Commerce, EDA) | 50 |
| Pilot Survey of Job Vacancies and New Hiring (Bureau of Labor Statistics, DOL) | 285 |
| Center for Adult Literacy (U. S. Dept. of Education) | 500 |
| Miscellaneous (Total actions under $50,000) | 209 |
| Subtotal, Other Activities | $3,859 |
| **OTHER PLANNED ACTIVITIES** 2/ | |
| Oversight of YOU Demonstration | 350 |
| Youth Opportunities Research and Technical Assistance Project | 500 |
| GPO Printing of ASTD Booklets | 150 |
| Federal Bonding Program | 181 |
| Rolling SGA | 1,250 |
| Cincinnati Public Schools Career Match Program | 483 |
| Public Private Partnerships (Cities in Schools) | 500 |
| Improving JTPA Service (International Association of Machinists) | 244 |
| Subtotal, Other Activities | $3,658 |
| Total All Activities | $13,910 |

1/ Partial Funding.

2/ Estimates, actual funding amounts to be determined through competitive negotiation process.

*Amount of funding to be determined.

## PILOTS AND DEMONSTRATION ACTIVITIES

## UTILIZATION PLAN PY 1990

| PROJECT TITLE | PLANNED AMOUNT<br>($ in thousands) |
|---|---|
| **PROGRAMS FOR THE HANDICAPPED** | |
| Association for Retarded Citizens | $1,195 |
| National Association of the Blind | 251 |
| Epilepsy Foundation | 716 |
| Electronic Industries Foundation | 297 |
| Mainstream | 360 |
| National Association of Rehabilitation Facilities | 309 |
| Goodwill Industries | 527 |
| Subtotal, Programs for the Handicapped | $3,655 |
| **TRAINING DEMONSTRATIONS** | |
| Operating Engineers Training and Apprenticeship Program | 258 |
| National Puerto Rican Forum | 818 |
| National Tooling and Machining Association | 1,029 |
| PREP | 670 |
| National Association of Homebuilders NAHB | 540 |
| International Association of Machinists - IAM | 268 |
| Subtotal, Training Demonstrations | $3,583 |
| **PARTNERSHIP PROGRAMS** | |
| OIC of America | 1,383 |
| SER Jobs for Progress, Inc. | 927 |
| National Urban League, Inc. | 515 |
| Labor Movement Partnership HRDI | 2,008 |
| 70001 Training and Employment Inst. | 1,388 |
| LaRaza | 400 |
| Subtotal, Partnership Programs | $6,621 |

**OTHER ACTIVITIES**

| | |
|---|---|
| New Chance Demonstration-MDRC | 550 |
| Field Initiated Grants | 1,250 |
| Youth Opportunities Unlimited Program Projects | 7,000 |
| Pilot Survey of Job Vacancies and New Hires | 40 |
| OASP/National Media Outreach Center (NMOC) | 313 |
| School-to-Work Transitions (6 Awards) | 2,746 |
| Public Private Partnership Phase III (Cities in Schools) | 42 |
| Printing Booklets, Disseminating Contract/Grant Results | 150 |
| Unions in Education Reform | 50 |
| Small Purchases (Policy/ Research Papers) | 50 |
| Subtotal, Other Activities | $12,191 |
| Total | $26,050 |

**ACTIVITIES CURRENTLY IN NEGOTIATION**

| | |
|---|---|
| Business Partnership National Alliance of Business | 5,800 * |
| Bonding Program | 181 * |
| Support of Center for Advance Learning and Training Technology Resource Center | 600 * |
| ADP Support for UI Demonstration Projects | 177 * |
| Cincinnati School-to-Work Career Match Demonstration | ** |
| Center for Adult Literacy | ** |
| Logistical Support to Performance Standards and SCANS | ** |
| Wide Opportunities for Women (Overhead adjustment) | ** |
| Youth Substance Abuse Program (DC/Metropolitan Area) | ** |

* Estimates
**Currently in negotiation

## EMPLOYMENT AND TRAINING ADMINISTRATION

## PILOT AND DEMONSTRATION ACTIVITIES

## UTILIZATION PLAN, PY 1991 AND PY 1992

| PROGRAMS FOR THE HANDICAPPED | 1991 (EST.) | 1992 (EST.) |
|---|---|---|
| | ($ in thousands) | |
| Competitive Process | -- | $3,655 |
| Association for Retarded Citizens | $1,195 | -- |
| Epilepsy Foundation | 716 | -- |
| Goodwill Industries | 527 | -- |
| Mainstream | 360 | -- |
| National Association of Rehabilitation Facilities | 90 | -- |
| Electronic Industries Foundation | 297 | -- |
| National Association of the Blind | 251 | -- |
| Subtotal, Programs for the Handicapped | $3,436 | $3,655 |
| **TRAINING DEMONSTRATIONS** | | |
| 70001 (Youth) | $1,389 | $1,389 |
| National Tooling and Machining Association | 1,029 | 1,029 |
| PREP (pre-apprenticeship training for women) | 670 | 670 |
| National Association of Homebuilders | 541 | 541 |
| Subtotal, Training Demonstrations | $3,629 | $3,629 |
| **PARTNERSHIPS** | | |
| Competitive Process | -- | $1,383 |
| OICs of America | $1,383 | -- |
| SER/Jobs for Progress, Inc. | 927 | 927 |
| National Urban League | 515 | 515 |
| La Raza | 400 | 400 |
| National Puerto Rican Forum | 250 | 250 |
| National Alliance of Business | 5,800 | 5,800 |
| Human Resource Development Institute (AFL-CIO) | 2,225 | 2,225 |
| International Association of Machinists | 268 | 268 |
| Operating Engineers Training and Apprenticeship Program | 155 | 155 |
| Subtotal, Partnerships | $11,923 | $11,923 |
| **PILOTS** | | |
| Training and Technology Support Center | $600 | $600 |
| Center for Adult Literacy | 550 | 550 |
| Cities in Schools | 500 | 500 |
| SCANS | 150 | 150 |
| Performance Standards | 150 | 150 |
| Subtotal, Pilots | $1,950 | $1,950 |

OTHER

| | | |
|---|---|---|
| YOU Demonstration (7 Sites) | $4,900 | -0- |
| YOU II (5 Sites-Congressional Expansion) | 3,000 | -0- |
| New Chance (teen parents) | 550 | $550 |
| Cincinnati School to Work Demonstration | 483 | 89 |
| Parents Fair Share (Non-Custodial Fathers) | 300 | -0- |
| Migrant Demo (Congressional Expansion) | 300 | -0- |
| Youth Research & Technical Assistance Project - Brandeis | 200 | 300 |
| Federal Bonding Program (ex-offenders) | 181 | 181 |
| UI ADP Support | 177 | 177 |
| Small Purchases/Overhead Adjustments | 125 | 125 |
| Subtotal, Other | $10,216 | $1,422 |
| Total Programs | $31,154 | $22,579 |

## FEWER JOB TRAINING ENROLLEES

Question. Your budget for the Employment and Training Administration indicates that there will be 236,000 fewer participants enrolled in fiscal 1992 than are currently being served in fiscal 1991. This represents a 14 percent reduction in enrollees below the current level. Why are you cutting back on job training at a time when unemployment is rising?

Answer. We are not cutting back on job training. In fact, we are emphasizing more intensive, better quality training for JTPA participants which will enhance their future success in the labor market. The basic change is to provide for year-round support for participants who have traditionally only received program support during the summer. The decrease in the number of new participants is due to the projected higher cost per participant due to the increased services that will be provided and the longer program stay predicted.

Question. If the Federal government de-emphasizes job training, how can we expect the private sector to do more?

Answer. We are not de-emphasizing job training. We are doing just the opposite by providing individualized, intensive and comprehensive services to the at-risk adults and youth.

## CONTINUATION OF NATIONAL DISPLACED HOMEMAKERS NETWORK

Question. The National Displaced Homemakers Network has provided intensive training and technical assistance to local programs in ten states each year for the past two years. The Network also provides assistance to numerous state and local agencies, policymakers, employment and training providers and individual women seeking the services in local programs. How will these efforts be continued?

Answer. Since we have not received our FY 1992 budget, we are unable, at this time, to determine what flexibility we will have to continue to fund the National Displaced Homemakers Network. Specific funding for this project is not included in the 1992 request. However, displaced homemakers may be eligible for services under the Job Training and Partnership Act and may receive job search assistance from the employment service.

## ELEVATING THE ROLE OF THE WOMEN'S BUREAU WITHIN THE DEPARTMENT

Question. The importance of women in the labor force now and in the years to come has been clearly documented in research about the future of the American workforce. To assure a workplace where women are productive contributors requires attention at the highest levels of government policy. To accomplish this goal the Women's Bureau should be elevated within the Department on a level with other agencies and assistant secretaries. What action will you take to assure that the Bureau -- the only federal agency with responsibility for addressing the needs of women workers -- is elevated within the Department?

Answer. Because of the Bureau's Congressional mandate to promote the welfare of wage earning women and its being the only Federal agency with such a mandate, its responsibilities extend across the spectrum of concerns of Department of Labor (DOL) and, in addition, require cooperation and coordination with other government agencies. Its international activities are increasing as well.

More importantly, women's role in the labor force continues to increase and change. The Bureau has taken a leadership role with the private sector to promote family oriented employment policies, i.e., child care, elder care, flexible hours, leave, and benefit plans. While the recognition of the benefits of such policies comes from the Bureau's knowledge of women workers, policy changes benefit men with families as well. As the Bureau expands its role not only within the Department but throughout the public and private sector and internationally, not only women and women's organizations, but also employers and employee groups look more and more to the Bureau for leadership and assistance.

While I agree that we may want to explore whether the Women's Bureau should be elevated within the Department to a level with other agencies which are directed by Assistant Secretaries, I don't believe the office's position is any less important because the position is not an Assistant Secretary slot. The Director of the Women's Bureau functions as an assistant secretary, participating in Departmental meetings, activities, etc. at the same level of the Assistant Secretaries.

## FEWER JOB TRAINING ENROLLEES

Question. According to GAO, only 20 percent of job training enrollees are in "higher skill" occupational training, such as electronic technician, auto mechanic, and computer programmer.

Should job training resources be redirected toward high skill training, and away from lower skill jobs such as custodians and food service workers?

Answer. Our policy approach in our legislative proposal emphasizes the need to serve those with significant barriers to employment and skills deficiencies, and to provide participants with the services and training which will give them the opportunity for long term labor market advancement. This suggests that we will need to do both more remedial training in basic skills and more occupational training with advancement opportunity.

Question. Is a greater emphasis on higher-skill training consistent with targeting resources on the most disadvantaged clientele?

Answer. As noted in the previous question, we will need to undertake more basic skills and remedial training, but our objective is to provide more access to higher skills occupational training when possible.

## FISCAL YEAR 1992 SHORTFALL IN UNEMPLOYMENT OFFICES

Question. According to the State Unemployment administrators, your fiscal 1992 budget is $357 million below what is needed to process mandatory benefit claims. Do you have a revised estimate of the unemployment insurance claims load?

Answer. The Department has not revised its estimated total UI claims workload for FY 1992. I believe that the figure quoted by the State UI administrators refers to an enhanced funding level for the same projected workload. We are not familiar with how they arrived at the $357 million estimate.

Question. What additional dollars do the States need to address this increased workload?

Answer. The President's FY 1992 budget request for UI administration is $178.4 million above the proposed FY 1991 level. Based on the Administration's current economic assumptions for FY 1992, we believe it includes sufficient funds to meet all the projected workloads and increased costs due to general inflation. However, if the unemployment forecasts for FY 1992 change, this could impact on the level of funds needed.

## UNEMPLOYMENT LINES

Question. How are the States coping with longer lines and inadequate staffing?

Answer. Several of the States are able to handle the increased workloads only through the staff working overtime, including Saturdays, and by extending office hours. States have curtailed "up front" integrity-related activities in order to meet workload demands and issue prompt payment of benefits. On-site mass claimstaking is being performed at union halls and job sites.

Question. Are there any innovative approaches to dealing with diminishing resources, or are States processing claims the same old way?

Answer. States continue to automate manual systems. States have increased utilization of optical character recognition in order to speed up processing time. Voice response technology is being adapted to respond to inquiries from the claimants and employers. Lap-top computers are being utilized for itinerant claimstaking. On-line terminal usage has increased at the initial claimstaking stage.

## PLAN TO CANCEL NEW JOB CORPS CENTERS

Question. Madam Secretary, I realize this decision was probably made before you came to the Labor Department, but let me ask you about the Administration's decision to seek cancellation of four new Job Corps centers. Congress appropriated money for six new centers back in fiscal 1989 -- more than two years ago. While you still plan to open two new centers in 1991, you have asked Congress to take $20 million set aside for the remaining centers and use it for repairs of existing facilities.

Now I'm all for rehabilitation and repair, but why should we finance maintenance work by killing an expansion plan that we've committed ourselves to?

Answer. Reflecting the declining federal deficit envisioned in the recent budget agreement, our proposal addresses the need to limit the growth of federal expenditures in future years. The Administration believes that available resources should be used to improve the quality of training at existing Job Corps centers. Upon activation in 1993, the four centers in question would add nearly $20 million per year to Job Corps operating expenses. In addition to deleting these expenditures from future federal budgets, our proposal also includes a recoupment of $20 million in capital funds that can be redirected to existing facilities. Our proposed redirection of capital funds will further result in a direct dollar for dollar reduction in the budget authority that we would otherwise have requested for 1992.

Question. Don't you think our country can effectively use an expansion of Job Corps centers?

Answer. We do not agree that the Job Corps should be expanded beyond the opening of the two new centers reflected in our 1992 budget request. Current budget constraints imposed by the deficit reduction agreements preclude major spending increases.

Question. As military facilities are deactivated, why couldn't they be turned into Job Corps centers?

Answer. For the reasons I just mentioned, we do not agree that additional new Job Corps centers should be opened on deactivated military sites or anywhere else. I would also like to mention that moving a Job Corps center onto a deactivated military facility is not a turnkey operation. We have had experience with these situations, and the needed renovations and facility modifications are usually very involved and very costly.

## EXCESS SUMMER YOUTH FUNDS

Question. The President's budget indicates $100 million of FY 1990 Summer Youth funds were never utilized, and could be rescinded. Why were these funds never used?

Answer. The unspent balance at the end of the 1990 summer program is not unusual. Comparable amounts have been carried over from previous years and spent during the succeeding summers. The proposed rescission was offered as an offset for the $100 million supplemental requested for the Unemployment Insurance program, if one were required. If one were not, the rescission would not be recommended.

The Department examined a number of alternatives which could provide outlay savings of $100 million. A reduction in the summer program was considered the least disruptive of the choices available. Rather than proportionately reduce summer program funding for all States and service delivery areas, the decision was made to propose that allocations be reduced by whatever amount remained unspent last year. This would protect those areas which traditionally had high expenditure rates while penalizing those areas where balances were carried over from one year to another.

The rescission would have minimal impact on planning and start-up activities. However, because total resource availability would be reduced, fewer participants could be enrolled.

Question. Would rescinding these funds in any way adversely affect planning and start-up activities for this year's summer youth program?

Answer. Possibly. The funds may be used for planning and start-up activities before the summer begins. Each year, funds for the summer program are released in April. In response to requests that the funds be made available earlier for planning and start-up purposes, the Department has indicated that unexpended funds from the previous summer may be used for such purposes. The Department has no firm data as to the amount of funds needed for such activities during non-summer months, as contrasted to administrative activities during operation of the program during the summer. There is an overall 15 percent cost limitation on administrative activities, so that, overall, no more than approximately $120 million could be expended for administrative purposes during both summer and non-summer months for the 1991 summer youth program.

Question. If these funds are not rescinded couldn't they be used to augment this summer's youth jobs program?

Answer. Yes, and in prior years unexpended funds from one program period have been carried forward and used to augment the program in subsequent program periods.

## NEW DISLOCATED WORKER PROGRAMS

Question. You are not requesting any additional staff to review dislocated worker proposals and provide technical assistance to fund recipients under either the Clean Air Act or Defense Conversion Adjustment programs.

What amount of staff resources do you expect to utilize to administer these programs, and from which activities will they be diverted?

Answer. Both the Clean Air Act and the Defense Conversion Adjustment programs provide for up to 5 percent of the funds to be used for administration of the programs. It is not clear at this time, however, just what additional staff resources will be needed to effectively administer the Clean Air Act or the Defense Conversion Adjustment programs.

The staff currently working with the Title III program will be augmented as necessary with Regional Office staff who are in the best position to provide oversight and technical assistance, as well as staff from other ETA Offices to provide appropriate support in the areas of financial management and reporting, and assistance in coordination with activities under the employment service or unemployment insurance systems.

## PBGC APPROPRIATIONS LANGUAGE CHANGE

Question. You are requesting flexibility to spend in excess of appropriated amount for administrative costs in connection with terminations of pensions. Why can't you simply request a supplemental if you need extra administrative funds?

Answer. The present language does not provide PBGC the resource flexibility to handle large uncontrollable and unpredictable increases in its workload. In addition, the pace of the supplemental process can seriously hamper the Corporation's ability to act quickly to take over pension plans and limit losses.

Over the last few years the size, complexity and predictability of pension plan termination activity has changed dramatically. These cases have required immediate and large additional expenditures to protect the financial interest of the Corporation and the plans and participants it insures. The language supplemental will give PBGC the timely resource flexibility it needs to cover these increased costs that occur from unplanned terminations activity.

The language change would not affect Federal outlays because these expenses would be reimbursed by PBGC's trust funds which are not a part of the Federal budget. It should be noted, as with the current flexible administrative expenses limitation, increases above those amounts presented in the President's budget will be subject to Office of Management and Budget approval through the apportionment process.

Question. What additional amount do you expect to need for the balance of FY 1991?

Answer. PBGC's FY 1991 budget does not include resources to handle new large pan terminations. However, PBGC has identified four companies that have terminated or are expected to terminate large plans during FY 1991. This includes the recently terminated Eastern airline plans. The PBGC is currently in the process of assessing the resource requirements to handle these large terminations. PBGC estimates that the administrative costs for just the Eastern airline plans will be about $10.5 million for the remainder of FY 1991. The timing of the termination of the other large plans expected during FY 1991 will dictate any additional amounts that will be needed.

## NATIONAL OCCUPATIONAL INFORMATION COORDINATING COMMITTEE

Question. The National Occupational Information Coordinating Committee provides basic support of State Committees in meeting their mandates to provide occupational information to support JTPA and vocational education planning and career information delivery. It is my understanding that, if approved, the proposed reduction in this area would only permit about 80 percent of the State Coordinating Committees to maintain their existing occupational and career information delivery systems. How will the other 20 percent of these State Committees be impacted?

Answer. The Administration's 1992 request of $2.5 million for the National Occupational Information Coordinating Committee (NOICC) will enable basic support of State Committees in meeting their mandates to provide occupational information to support JTPA and vocational education planning and career information delivery. In addition, the Department of Education is requesting $4.88 million for NOICC, the same as in 1991. Funding in 1992 would enable about 80 percent of the State Occupational Information Coordinating Committees (SOICCs) to maintain their existing occupational and career information delivery systems. We estimate that operations will be reduced in 10 to 12 States.

## YOUTH DEMONSTRATION PROJECTS

Question. You support a new $25 million program for a new demonstration program called "Youth Opportunity Unlimited" which is similar to last year's legislative proposal that was not enacted into law.

Don't you have authority to conduct such youth demonstration projects under existing law?

Answer. The Department believes that the crisis situation affecting youth growing up in high-poverty areas warrants a separately authorized program directly targeted towards such youth. The Youth Opportunities Unlimited (YOU) initiative targets money directly into high-poverty inner-city and rural areas where the need is most great. Further, the initiative emphasizes comprehensive services of demonstrated effectiveness and integrating as many social services as possible to assist highly at-risk youth. Making YOU an ongoing program in its own right will provide it with its own stable, dependable source of funds from year to year, which will enable sites to provide a strong foundation for their programs over time.

Question. Why don't you simply propose a $25 million increase for youth job training "pilot and demonstration" projects, instead of the $8 million reduction in your budget request?

Answer. As noted above, the Department believes that the severe social problems affecting youth living in high-poverty areas requires a program in its own right with its own design.

Question. This Committee specifically included increased pilot and demonstration funding for the new program year that begins July 1, 1991, to enhance the education and employability of at-risk and minority youth. What progress are you making toward having this special demonstration effort operational by this summer?

Answer. We plan to set aside $3 million in our PY 1991 P&D budget to fund three to five sites in this demonstration. We will put out a competitive grant announcement for the project sometime shortly after the program year begins.

## APPRENTICESHIP TRAINING

Question. Our job training programs for young people have been criticized for being too narrowly focused on skill requirements for specific occupations, instead of preparing youth for careers that require a broad range of knowledge and abilities. What are you doing to make job training programs more flexible, to prepare youth for a wider range of employment opportunities?

Answer. Under the National Apprenticeship Program, registered apprenticeship is training in occupations that require a wide and diverse range of skills and knowledge. Apprenticeship as practiced by modern industry is a business-like system designed to provide workers entering industry with comprehensive training by exposing them to the practical and theoretical aspects of the work required in a highly skilled occupation. This is accomplished through structured training on the job and related theoretical instruction.

Bureau staff provide technical assistance to apprenticeship sponsors to develop skill training programs that can be adapted to meet local industry requirements and still meet required standards necessary for registration. These programs do require broad knowledge and ability and are flexible in terms of addressing specific local needs. In addition, Bureau staff can help sponsors establish performance-based programs allowing for completion based not only on time devoted to the training but also considering individual progress in learning and producing quality products and services.

Further, DOL has funded a series of demonstration projects to explore and evaluate various approaches to providing youth with a wider range of employment opportunities through the development of school-to-work transition models. The projects (funded at $3.2 million in federal contributions and $7.3 million in local funding) are with six organizations:

- The Pennsylvania Department of Commerce project is designed to prepare young people for entry level positions in the state's metalworking industry.

- The L.A. Unified School District project has as its focus entry into telecommunications, banking services, and public service.
- Project Protech with the Boston Private Industry Council is designed to create pathways for youth to enter the health-care industry.
- Maryland Department of Economic and Employment Development provides entry into a variety of technical occupations for its participants.
- The National Alliance of Business projects will prepare youth as Sears appliance technicians, and as bank tellers.
- The Electronics Industry Foundation project will prepare students for careers in the electronics industry.

DOL is considering the funding of a second round of school-to-work transition projects that would expand the training into additional occupational categories.

Question. What success have you had in expanding the apprenticeship concept beyond its heavy concentration in the building trades?

Answer. A comprehensive study of the apprenticeship concept of training has recently been completed by the Department. Based upon the findings of this study the Department has undertaken a new initiative to expand the apprenticeship concept of training. A number of significant actions have been initiated. The Federal Committee on Apprenticeships is examining ways to expand the National Apprenticeship System. A series of demonstration programs are currently underway which will test various approaches to utilizing the apprenticeship concept of training in non-traditional areas such as banking and the medical area. Also a national commission on work-based learning has been established to provide direction for supporting and assisting in the delivery of work-based training programs. Expectations are that successful program models will be replicated and that commission deliberations and recommendations will result in successful expansion of the apprenticeship concept of training to many non-traditional areas.

Question. How do you assure that expanding the apprenticeship system will not dilute the quality of existing programs?

Answer. One of the recommendations emanating from the comprehensive review of the apprenticeship concept of training was that program criteria and measurements be developed and implemented to ensure that all programs provide quality training. The Department's Federal Committee on Apprenticeship (FCA), which was recently reconstituted, will be taking a hard look at this issue and will be providing advice and assistance to the Department. One FCA subcommittee will be focusing specifically on this issue. In addition, the Department, in conjunction with the FCA, is developing a Quality Handbook for apprenticeship programs. Finally, improving the quality of apprenticeship is one of the important goals of any revisions to the apprenticeship regulations.

## NEW DISPLACED HOMEMAKERS LEGISLATION

Question. You are not requesting any funds to implement the newly enacted Displaced Homemakers Self-Sufficiency Assistance Act, authorized at $35 million.

In my home State of Iowa, I am aware that there are 18 Displaced Homemaker projects that receive limited funding under the Perkins Vocational Education Act. These projects are being severely strained by the war in the Gulf, which has left many more women needing economic and emotional support services.

Don't you agree that it is cost effective in the long run to help displaced homemakers achieve self sufficiency, rather than having to depend on expensive welfare programs and the accompanying loss of dignity?

Answer. We have not conducted scientific studies that measured the cost-effective impact of programs to help displaced homemakers. Developing a sense of dignity and self-esteem are particularly important prerequisites for successful skill development for succeeding in the world of work. It is the first step for many displaced homemakers on their way to their own economic self sufficiency.

Question. What Labor Department services are currently available to Displaced Homemakers?

Answer. The Job Training Partnership Act is the major source of training funds in the Department. This Act provides money for job training for displaced, older, low-income and disadvantaged workers. Displaced homemakers seeking job search assistance may be eligible for help under the Job Training and Partnership Act or may receive help from the employment service. Since a majority of displaced homemakers are over age 65, many also may be eligible to participate in the Community Service Employment for Older Americans (CSEOA) program.

## OSHA'S EFFECTIVENESS

Question. This April will mark the 20th anniversary of the Occupational Safety and Health Act. How do you assess the effectiveness of OSHA in improving workplace health and safety?

Answer. OSHA's first twenty years has brought about a fundamental change in the workplace, as well as the relationships among industry, labor and government--how they address workplace safety and health and how they meet their responsibilities under the Occupational Safety and Health Act. Although OSHA has not been without criticism, it can be credited with preventing injuries, preserving health, and saving lives. OSHA has prompted the creation of many safety and health programs and has helped to generate a new caliber of safety and health professionals. OSHA has also served as the national focus for examining and debating occupational safety and health problems.

The effectiveness of the agency's programs is ensured in a number of ways. The agency has established procedures for sending its safety and health professionals into workplaces most likely to have serious workplace hazards. Quality is assured by focusing on improving the agency's processes and capabilities, through continuous compliance officer training and through pilot projects to test new approaches for targeting high risk workplaces and high risk worker populations. Data are reviewed to assess effectiveness, including trends in employer and employee complaints. Further agency monitoring involves the workplaces inspected, total inspection hours, the number and types of violations found, and penalties assessed.

By a number of objective measures, OSHA enforcement has been more vigorous in the past two years. In FY 1990, OSHA compliance officers spent significantly more time on each inspection; an average of 15 hours on each safety inspection and 40 hours for each health inspection. This compares with 10 hours for safety inspections and 30 hours for health inspections in 1985. From 1987 to 1990 there was an increase of 160 percent in willful, serious, repeat or failure-to-abate violations, and the dollar amount of the penalties proposed by the agency increased 176 percent.

## LEGISLATIVE CHANGES

Question. Would you support legislative efforts to further strengthen OSHA by: mandating joint labor-management health and safety committees; giving employees the right to participate in negotiations over settlement of employer penalties for violations; allowing issuance of criminal complaints against employers for certain willful violations; and extending coverage to State and local public employees?

Answer. After twenty years experience in administering the Occupational Safety and Health Act, our preference is to work administratively to improve OSHA. We believe that legislative action, in general, is not necessary.

With regard to the specific issues you raised, I do not favor mandatory federal requirements for joint labor-management health and safety committees. Such requirements would limit needed flexibility. The design and operation of such committees should be the subject of labor-management negotiations and agreements. Success must be based upon commitments of the participants, not imposed by some government agency. The sensitive issue of giving employees the right to participate in negotiations over settlement of employer penalties is of great concern. We have opposed similar requirements in past legislative proposals.

Regarding allowing issuance of criminal complaints against employers for certain willful violations, the Department of Labor is on record as supporting proposals to change the characterization from misdemeanor to felony for cases where willful violations lead to death. Finally, we would support efforts to extend safety and health protection to State and local public employees, in federal jurisdiction states, that are not now covered under the Act.

## JTPA CAPACITY BUILDING

Question. The Partnership for Training and Employment Careers has recommended creation of a line item for staff training and development in the JTPA appropriation.

How much is currently being spent for JTPA staff development and training, and what are the pros and cons of creating a line-item for these expenses?

Answer. Based on a study done for the Department by the Berkeley Planning Associates and Macro Systems, Inc., on "JTPA Staffing and Staff Training at the State and SDA Levels", there appears to be increasing interest in training for JTPA staff. Staff surveys identified a considerable amount of training received by staff between July 1987, and early 1990. During that period staff respondents at both the state and SDA levels took an average of almost four training courses each.

I do not believe a separate line item for training is needed in the JTPA appropriation since this action would limit the flexibility States and localities currently have the flexibility to use their available funds for such purposes. The Administration's previously proposed amendments would set aside approximately 3 percent of the amount allotted to a State for both adult and youth programs for technical assistance in developing the overall capability of the system, including staff development and training of both State and local staff. These funds are separate from State and local administrative funding and should significantly increase the amount of training offered.

Question. What are your plans to pursue capacity building in the employment and training system?

Answer. The Department is committed to capacity-building as a collaborative process involving State and local officials and other interested parties at each step in the process. It is our intention that all capacity-building efforts will be system driven, will be based on the needs of the system, and will build upon existing resources.

## STAFF DEVELOPMENT

Question. Describe plans by the Employment and Training Administration to enhance staff development, set up a national training institute, and a program accreditation system.

Answer. Optional approaches to the three components of capacity-building most frequently identified by State and local program operators as key elements were published for comment in the Federal Register on February 7, 1991. The areas raised for comment include:

- o Increasing the recognition of staff competencies.
- o Comprehensive Training of JTPA Staff at all Levels.
- o Improving the quality of service delivery.

Question. What is your timetable for implementing these plans?

Answer. The Department views capacity-building as a means to increase program integrity and insure higher quality services to the at-risk population. The Department is currently reviewing the comments received in response to the above-mentioned Federal Register notice, plans to meet and discuss issues with principal commenters, Congressional staff and interest groups, arrive at positions, where appropriate, and publish such positions for further general comment. Next steps and future direction for capacity-building efforts will be based on the JTPA system's response and comments elicited. The Department does not intend to proceed with any of the options presented unless and until guidance and support is received from the JTPA system.

## JOB CORPS SUCCESS STORY

Question. Job Corps is unquestionably expensive, costing nearly $20,000 annually per slot or $11,600 per enrollee. For 27 years, it has also been one of the most successful efforts in turning around the lives of "hard core" disadvantaged youth, with 84 percent getting permanent jobs or going on to advanced education. What can you tell us about new and innovative plans to further improve the Job Corps success story?

Answer. The Job Corps has a longstanding and vigorous tradition of program development. In recent years we have undertaken comprehensive efforts to review and modernize all major aspects of our curricula and operations, including our vocational offerings, our basic education programs and our residential living services. For example, Job Corps vocational offerings have been modernized and restructured into a competency based format. Both the reading program and the GED preparation program have been updated.

More recently, initiatives have been put in place to overhaul the entire basic education program through the development of competency based curricula, and further efforts are underway to implement a newly created social skills development curricula. We have expanded to all centers the pilot program on drug testing, counseling, education, and treatment. We are also introducing up-to-date computer technology to streamline our student payroll and management information systems and to relieve our teachers of burdensome administrative tasks.

We are also placing a heavier emphasis on improving our linkages with State and local agencies. We are especially interested in developing jointly funded arrangements for the provision of on-site child care. Non-financial agreements, such as those by which Job Corps centers are accredited as alternative high schools, are also being pursued.

Question. What success have you achieved in getting local governments and the private sector to contribute to improvements in the Job Corps?

Answer. Overall, success has been limited. However, a number of centers have been quite successful in getting support from State and local government agencies to enhance services for Job Corps students. Following are some specific examples:

The South Bronx Job Corps Center has developed a linkage with the New York City Board of Education. Through this linkage, the center is now certified as an alternative high school for the city of New York, with teacher's salaries paid by the school board. Students enrolled in the alternative school program receive the benefit of extra classes such as journalism, parenting and how to obtain legal assistance, which are not part of the regular Job Corps curriculum. In addition, the School Board funds an on-site child care program for teen parents enrolled in the alternative school program.

All four Job Corps centers in Oklahoma have executed linkage agreements with the State Department of Human Services (DHS) and the State Employment Service to enroll young AFDC recipients in Job Corps, with DHS arranging for provision of child care at no cost to the students.

The Turner Job Corps center, in Albany, Georgia, is preparing to start a residential single parent program. The State will provide funding through AFDC and food stamps to support the residential component as well as on-site child care.

A 50 slot teen parent program is operating in Portland, Oregon as a satellite of the Tongue Point Job Corps Center. The program is provided by Job Corps, Portland Public Schools and the Private Industry Council and provides education, training and support services for young mothers who would be unable to attend a residential center.

The San Diego and Potomac Job Corps centers have on-site child development programs operated by Head Start.

We have been less successful with private sector linkages, although some centers have local agreements for things such as provision of free hair care, magazine and newspaper subscriptions, donations of clothing, etc.

## IOWA CHILD CARE FACILITY

Question. Please update the Committee on the progress being made to complete new child care facilities at the Denison, Iowa, Job Corps Center.

Answer. The Department is currently finalizing the design specifications for this facility. Advertisement for an architectural engineering firm to perform the required design for this project will be published in the Commerce Business Daily before the end of March 1991.

Question. What steps remain to be accomplished, and what is your timetable for their completion?

Answer. The remaining steps on the project are: 1) completion of the detailed design specifications for the project; 2) advertisement and selection of an architectural engineering firm to perform the required design drawings and advertisement; and 3) selection of a construction contractor to perform the rehabilitation necessary to complete the project.

Question. When do you expect to have this project fully operational?

Answer. Our timetable calls for the child care facility to become fully operational by late in the fall of 1992.

Question. Why is it taking so long, and how might plans be speeded up?

Answer. Design and construction contracts must be issued in accordance with the procedures set forth in the Federal Acquisition Regulations. The steps and timeframes for completing the Denison project are as follows:

- o Advertisement in the Commerce Business Daily for A&E firm; selection of an A&E firm (5 months).
- o Design work by the selected firm (6 months).
- o Advertisement in Commerce Business Daily and selection of a construction contractor (3 months).
- o Construction and rehabilitation work (6 months).

As indicated above, the entire process for obtaining services of an A&E firm and doing the necessary construction/rehabilitation will take 24 months.

## BLS BUDGET REQUEST

Question. The budget for the Bureau of Labor Statistics in fiscal 1992 represents a 25 percent increase over 1991. Why is such a large increase requested during a period of severe budget restraint?

Answer. The large increase reflects both a new legal requirement and a government-wide interagency initiative to improve Federal statistics. As a result, the BLS budget includes two essential initiatives in addition to mandatory items such as pay, space rent and postage.

The request of an additional $15.75 million and 140 FTE enables the BLS to proceed with the massive expansion in occupational wage survey programs in response to the data requirements of the Federal Employees Pay Comparability Act of 1990 (FEPCA). With these funds in FY 1992, BLS will continue with the start up of activities necessary to expand its current occupational wage survey program to include the industries, occupations and geographic areas needed for administration of FEPCA.

The BLS request for $16.1 million and 96 FTE to improve its major statistical programs is a critical component of the administration's initiative to improve the economic statistical system. This reflects the special status accorded this program from he outset of the Bush Administration, which identified improved statistics as a Presidential priority in the President's initial message to Congress in February 1989.

Question. What activities could be postponed until fiscal 1993?

Answer. If the Department is to meet its responsibility to produce data to support wage determinations by the dates specified in the FEPCA, progress on the locality pay surveys cannot be delayed.

Since the Federal Economic Initiative increase is a piece of a government-wide initiative, delay in the BLS portion would have a detrimental impact on other statistic gathering agencies as well as perpetuate the inadequacies of the data that are being used by policymakers in the executive and legislative branches of government and by the private sector. Particularly at this point in time when there is serious question about the direction of the economy, improvements in the employment and price data need to proceed.

Question. What would be the impact of Congress denying each and every requested program increase?

Answer. If the funds to support the survey work under the FEPCA are not appropriated, there will be no data on which to make pay comparability determinations. Since the salary differentials will involve, in the aggregate, huge amounts of money and will be carefully scrutinized by the public as well as those with a special interest in Federal employees, they must be based on sound survey results and statistical techniques.

If the funds to improve the statistical system are not appropriated, the employment and price data will continue to become more out of date, less efficient and of lesser quality. Given the widespread use of Federal indicators for private investment decisions and in the allocation of public resources, it is necessary that its relevance and quality be improved. This is the basic concern underlying the initiative to improve these important measures.

## MSHA STAFF CUTS

Question. The fiscal 1991 across-the-board cut of 2.41 percent in the Labor-HHS Appropriations bill resulted in 27 fewer Mine Safety enforcement staff. What impact is being felt from this cut?

Answer. In the FY 91 Coal Enforcement program, MSHA will reduce on-site education and training activities designed to assist the operator through the evaluation of their training programs. Other discretionary programs with reductions are special inspections and technical investigations. These are non-mandatory enforcement activities directed toward special problem areas and engineering evaluations and assistance. Some of the special inspections and technical investigations will be restored in FY 92.

In the FY 91 Metal/Nonmetal program, MSHA will eliminate most of the compliance assistance activities designed to assist mine operators in solving compliance problems. Some of these activities will be restored in FY 92.

Question. Why are you proposing to extend this cutback in fiscal 1992?

Answer. The President's FY 1992 budget request for MSHA was developed to ensure that all mandatory requirements of the Federal Mine Safety and Health Act of 1977 would be satisfied. Because the

FY 1991 enforcement staffing level provided sufficient resources to complete all mandated inspections, this same level is proposed for continuation in FY 1992.

Question. How much would be required to restore these 27 FTE in fiscal 1992?

Answer. A total of $1,391,000 is required to restore the 27 FTE.

## INCREASE IN INSPECTIONS

Question. Your OSHA budget indicates Federal inspections will increase by 3,000 to 47,000 in Fiscal Year 1992. How can you accomplish more inspections when you are requesting 5 fewer Federal enforcement staff in Fiscal Year 1992?

Answer. OSHA's reduction of five FTE from the Enforcement activity represents a reduction in support staff, not compliance officers. The increase in projected inspections is attributable to the increasing experience and productivity of compliance officers hired during the last several years, and the agency's greater experience in enforcing new penalty procedures implemented in 1991.

## BILL LANGUAGE RESTRICTIONS

Question. Explain what enforcement changes would result from your request to drop several bill language restrictions, such as the exemptions for small farms, and small firms in industries with better than average safety records.

Answer. The exemption for small farming operations excludes a large segment of workers from OSHA's coverage, by exempting more than 98 percent of the nation's farms and at least 53 percent of all farm workers from the Act's protection. Currently, agriculture has the highest lost work day injury rate of any major industry group other than construction. Elimination of the rider would allow OSHA to investigate farm workers fatalities, respond to reports of serious hazards or imminent danger and to include farm workers under new OSHA standards.

OSHA is proposing to eliminate the exemption for small businesses in SIC's with rates lower than the national average because the bill language is unnecessary. OSHA's current enforcement practices preclude inspections of small firms with better than average safety records. The restriction, however, limits the agency's flexibility to focus inspection resources on individual workplaces with the poorest safety records if they are included within the exempted industry classifications.

## FECA PERIODIC ROLL REVIEW INITIATIVE

Question: Explain exactly what you expect to accomplish through your proposal to hire 50 staff to review long-term workers' compensation disability rolls.

Answer: As injury claims have grown, and various court rulings and changes in regulations have added procedural steps to claims processing, Federal Employees' Compensation (FECA) staff has concentrated on basic claims actions. While this function has been improved, there has still been a growth in the number of Federal workers receiving long-term benefits. This has risen by 24% since FY 1982, to about 50,000 workers. During the same time medical benefits costs have risen 145%.

The 50 term FTE represent the first half-year staffing of a proposed 200-person four-year project. Under the project, teams of claims and rehabilitation personnel would conduct an intensive review of long-term cases; improve medical care; identify workers who could benefit from training or placement to become reemployed; and identify claimants whose work-related disability has resolved.

Meanwhile, regular staff will be trained to employ effective techniques and procedures, some tested in FECA over the last two years, in a "Model Compensation Management Program" to manage new claims, and be prepared at the end of 4 years to resume the management of the entire periodic roll.

Question: What cost savings do you anticipate from this program?

Answer: Since an average totally disabled worker receives about $20,000 annually in wage loss benefits, we believe that significant savings can be achieved, particularly in the third and fourth years of the project. We expect termination of eligibility of some 3,000 long-term disability cases. The terminations will either occur because medical evidence shows that disability has ceased, or, following second opinion examinations or vocational rehabilitation, claimants are returned to work.

Net savings in the project's first four years are expected to be approximately $40 million. Additional savings will continue beyond the project's completion as a result of permanent terminations and downward adjustments in eligibility. Still other savings will result from shorter disability periods for new disability cases and from lower costs of medical care.

Question: Why are you requesting only 4-year limited term staff, instead of permanent positions? Won't this make it difficult to recruit quality personnel?

Answer: We believe that these positions will be very attractive despite their 4-year status. We are targeting recent retirees, and other more experienced people who would not view the 4-year appointment as a barrier. In addition, because of recent slowdowns in the private and governmental sectors, we should find a larger pool of qualified personnel seeking such appointments. Except for the 4-year limit, those hired will have the same benefits as permanent staff, including accruing retirement benefits. Finally, the training and experience received will improve the ability to compete for permanent Federal appointments. Wherever possible, we will recruit term employees for vacancies within our organization.

Question: What staff resources are currently utilized for disability management?

Answer: Claims examiners, who make up approximately 45 percent of FECA staff, conduct both early case management and management of the long-term disability rolls, adjudicate claims, answer priority correspondence, authorize medical payments, and perform other duties. With increasing incoming workloads and additional procedural requirements in recent years, these resources have focused on front-end claims work. In addition, we have sixteen Rehabilitation Specialists and contract and State Vocational Rehabilitation support. In total, however, we have only been able to return 1,450 persons to work in recent years through rehabilitation and employment. This should be contrasted with a periodic roll of 50,000 (without death cases).

## OFCCP REDUCTION OF STAFF

Question: You are proposing to cut 15 staff in the Office of Federal Contract Compliance Programs, resulting in 100 fewer compliance reviews in fiscal 1992.

Why are you de-emphasizing enforcement of affirmative action compliance?

Answer: To the contrary, the FTE reductions will not de-emphasize enforcement of affirmative action compliance. A number of initiatives implemented over the past few years will maximize the impact of our enforcement efforts.

OFCCP has implemented an enforcement strategy based on these initiatives which will maximize the impact of its enforcement activities in spite of the reduced staffing. The strategy includes:

1. increasing litigation against recalcitrant contractors;

2. using the media to publicize significant results;

3. coordinating enforcement efforts with other Departmental Agencies such as the Bureau of Apprenticeship and Training;

4. coordinating enforcement efforts with other Federal agencies, principally the Equal Employment Opportunity Commission;

5. improving guidance to our compliance officers through revision of our compliance manual;

6. improving training for compliance officers;

7. increasing use of microcomputer technology;

8. encouraging voluntary compliance by recognizing exemplary voluntary affirmative action efforts of contractors;

9. focusing enforcement efforts on work force 2000 issues such as eliminating attitudinal and organizational barriers to the advancement of women and minorities into high level corporate management occupations.

We are already beginning to see the results of these in the increased level of financial awards obtained from contractors over the last few years and the high violation rates resulting from compliance reviews. In fiscal year 1989, we obtained $36.8 million in financial awards. In fiscal year 1990, financial awards totaled $34.7 million. For fiscal year 1991, we have already obtained over $6 million in the first quarter alone.

## ENFORCEMENT OF EEO REQUIREMENTS

Question: How many staff will have to be diverted to carry out your newly acquired responsibility to enforce EEO requirements in apprenticeship and training programs?

Answer: It will not be necessary to divert any staff to carry out the newly acquired responsibility for apprenticeship and training programs. OFCCP plans to incorporate these enforcement actions into its "normal" workload.

The Memorandum of Understanding with the Bureau of Apprenticeship and Training (BAT) provides for a shared and coordinated effort.

In addition to OFCCP and BAT, the Department will use the resources of the Women's Bureau to take advantage of their standing with major community-based groups and expertise in outreach programs for women. With these three highly visible DOL agencies, we expect notable results within a short period of time and without over-taxing the limited resources of any one entity.

## EMPLOYMENT SERVICE AUTOMATION

Question. A number of States have set up early intervention programs to help unemployment insurance claimants return to the workforce quickly. How can we make such programs work if the Employment Service continues to be eroded?

I understand that in some states, job applicants can use a self-service approach to finding jobs in the Employment Service local offices. Iowa has a pilot project in Marshalltown where a Workforce Center of the Future will incorporate a variety of computer technologies, including hardware and software designed to allow greater access for both job seekers and potential employers.

It seems to me that such an approach would speed up the applicant process so that those people who need extra help in finding jobs can receive the time and attention they need. After all, the Department of Labor--in recent years--has stressed the need to work with hard-to-place, multi-barrier individuals. Yet the Department has repeatedly refused to ask for automation funding for the Employment Service.

Answer. The example that you have provided is just one automation model among several other excellent efforts undertaken by the States. Also the Department has developed, and many States are now installing, a system which we call ALEX or automated labor exchange. ALEX provides States the capability to permit jobseekers to conduct automated self-search for job openings by geographic areas, job categories or interests.

Question. Why has the $12 million appropriation for ES automation not yet been allocated to any of the automation requests?

Answer. The Department will be providing the automation grants to the States in the very near future. The grant awards fall into two broad categories: (1) those which will provide basic automation tools for access of job orders and jobseeker applications by employment service interviewers; and (2) those which provide access to automated services by employers and jobseekers. Most of the resources supporting automation efforts are from the State Wagner-Peyser grants. The Department believes automation can be effectively used to increase State program efficiency and productivity and encourages State Employment Security Agencies (SESAs) to invest available resources in such activities.

Question. Why has the Department not taken advantage of such an obvious tool for improving the States and achieving one of its own self-proclaimed goals?

Answer. State agencies have always had the flexibility to utilize the resources in their basic grant to fund automation activities. The distribution of the $12 million appropriation will further enhance the States' automation capabilities.

## INNOVATIVE EMPLOYMENT SERVICE PROGRAMS

Question. In many States, Employment Services have developed innovative programs to speed service, reach hard-to-place job seekers, and contribute to overall economic development. The toll-free 1-800-JOB-IOWA information line and Iowa's at-risk youth program come immediately to mind. Can you outline some of the others and what steps the Department has taken to ensure success in these programs?

Answer. The Department has developed a number of approaches over the past few years to encourage State Employment Service (ES) agency innovative projects. First, we have completed seven innovative demonstration projects. We provided $200,000 each to seven States to develop innovative approaches aimed at improving ES services. These projects included improving coordination between ES and Job Training Partnership Act program operators; and developing and testing an integrated computer-based assessment, referral and job placement system, as examples.

The Department has held Forums to discuss innovations in process in States, and has developed and distributed a catalogue to all States listing those innovations. In addition, we have published the major speeches given at the Forums by futurists, educators, ES administrators, and private industry experts. Overall, we have encouraged States in meetings and in publications to experiment and to analyze future needs and ways to meet them. States have responded by visiting innovative projects in other States to obtain additional details, and then designing their own projects.

Since authority has been decentralized to States to make decisions based upon the unique needs of their communities we have seen increased action by States to design program components that are effective and efficient, in other words, programs that work. The Department will continue to work with States to encourage innovation.

### DELAYS IN BENEFIT PAYMENTS

Question. This recession has found the unemployment insurance system ill-prepared to serve jobless workers--there are long lines, overcrowded offices, and payment delays in many parts of the country. Iowa's unemployed are experiencing 3 to 4 week delays in receiving their first unemployment insurance check. Why has this happened?

Answer. Due to the national recession, UI workloads have risen rapidly, resulting in delays in claimants receiving their first unemployment compensation check in some States. To cope with the high workloads, some States have curtailed "upfront" integrity-related activities in order to meet workload demands and issue prompt payment of benefits. Many States are able to handle the increased workloads only due to staff working overtime and extended office hours, including Saturdays. Office managers are helping process claims workload in many cases.

### REPAIRS IN UI SYSTEM

Question. Does the President's budget include adequate funds to repair this system--expand the number of offices and workload capacity of the system?

Answer. The President's FY 1992 budget request for UI administration is $178.4 million above the proposed FY 1991 level. Based on the Administration's current economic assumptions for FY 1992, we believe it includes sufficient funds to meet all the projected workloads and increased costs due to general inflation. However, if the unemployment forecasts for FY 1992 change, this could impact on the level of funds needed.

With regard to the number of local offices, the results received to date from the Department's local office survey, conducted in FY 1990 at Chairman Natcher's request, indicate that most SESAs have maintained the same number of full-time local offices. The opening and closing of full-service offices is often a result of State decisions to consolidate employment and training services, including UI, in one location rather than having several locations serving different programs.

## BASE STAFF LEVEL

Question. How does the base staff level proposed for FY 1992 compare with the FY 1991 level?

Answer. The base staff level for FY 1992 is 37,612 staff years, 104 staff years higher than the FY 1991 base staff level of 37,508 staff years.

## DAVIS-BACON HELPER REGULATIONS

Question. What is your timetable for implementation of the Davis-Bacon helper regulations?

Answer. The helper regulations became effective on February 4, 1991. The Wage and Hour Division plans to implement these regulatory changes in three steps. First, our existing resources will be focused on issuing appropriate wage determinations from all wage surveys where data collection had been completed prior to the February 4 implementation date. Second, survey staff will be utilized to respond to conformance requests (i.e., requests to add helper classifications and associated wage rates to existing wage determinations). Third, as resources permit, new wage surveys will be conducted, including information on the employment of helpers where the use of helpers prevails locally.

The process of reviewing and issuing appropriate wage determinations from completed wage surveys is presently underway. Since the revised helper regulations only apply to contracts where the Invitation For Bids (IFB) was issued on or after February 4, or the negotiations were completed on or after February 4, we do not expect to begin receiving a significant number of conformance requests until sometime early this summer. However, we do expect the developing conformance workload to be considerable. Because of the substantial workload associated with these components of the implementation plan, Wage and Hour does not currently plan to conduct new wage surveys during FY 1991; however, they do expect to resume a normal survey program beginning in FY 1992 aided by the additional resources requested.

Question. How have you responded to criticisms that proposed helper regulations will assign many of the traditional tasks of construction laborers to lower paid employment, and undermine training activities aimed at upgrading skills of laborers in response to the advent of the modern, high technology, construction industry?

Answer. We disagree with the charge that the new helper regulations will assign traditional tasks of construction laborers to lower paid employment. In fact, this charge, among others, was examined extensively in the course of protracted agency rulemaking and litigation and was rejected by the courts. The issues were fully decided in the Department of Labor's favor for implementing the helper rules.

The courts ruled the helper regulations are entirely consistent with the language and purpose of the Davis-Bacon Act, which is to protect locally prevailing practices on Federal construction projects. The statute compels the results that the helper regulations will achieve -- namely, helpers will be allowed on Davis-Bacon jobs, but only in areas where they prevail, and to do the same tasks they already do on private construction projects according to local area practices, i.e., to perform the semi-skilled work of a trade under the direction and supervision of journeylevel workers. The new rules will enable Davis-Bacon wage determinations to more accurately reflect what is actually being paid in local areas, to satisfy the statutory intent that wages on Federal construction projects "mirror" those that are locally prevailing. As the D.C. Circuit Court of Appeals summarized it, "... the new regulation ... is an entirely logical response to the problem of federal construction practice not reflecting the widespread, but not universal, practice of using helpers. The new regulation would lower the current federal wages for the most part in those nonunion areas where they are significantly above the wages paid in the area ... Thus, the new regulation would be narrowly aimed at correcting the federal practice in areas where it has not worked well and would not result in a wholesale reduction in journeyman wages." (Bldg. and Construction Trades Dept., AFL-CIO v. Donovan, 712 F.2d 611 (1983), at 630)

The laborer classification is distinctly different from the helper category. Laborers do not typically use tools of a trade to perform semi-skilled tasks that overlap the duties of workers in the skilled trades, and do not typically directly assist such workers in the skilled trades under a journeyman's direct supervision as defined in the rules, as the Department explained in the rulemaking and litigation. Moreover, there is no economic incentive for contractors to replace laborers with helpers. Prevailing pay relationships in the industry are generally in direct proportion to skill levels, which makes it unlikely that helpers will ever substitute for laborers. By definition, the helper classification is a semi-skilled classification as opposed to an unskilled or a skilled mechanic's classification. Prevailing rates for semi-skilled helpers are in most cases above the levels prevailing for the unskilled laborer's classification. Only if a wage determination contained open shop rates for the journeyman and helper classifications, coupled with a union laborer rate higher than the helper rate, could an economic incentive exist to replace laborers with helpers. It is almost never the case that where there is an open shop journeyman rate a union laborer rate also prevails. (54 *Fed*. *Reg*. 4242; January 27, 1989)

In view of these considerations, we do not believe the criticisms are justified.

Question. In addition to the 13 FTEs and $750,000 increase requested in your FY 1992 budget, what FTE and dollar amount is currently being spent for helper regulation implementation?

Answer. Because Davis-Bacon staff are not assigned to work exclusively on helpers implementation issues, quantifying FTE and dollars currently being spent for implementation of these regulations would be quite difficult and any estimates would be rough at best. Work on implementation of the helper regulations is being done by current Wage and Hour staff.

We are working diligently to ensure that the regulations are implemented fairly, in a manner consistent with the rulings of the courts. This has required that we utilize resources which would otherwise have been largely devoted to the FY 1991 wage survey/determination program.

To date, we estimate that about a dozen employees from both the Wage and Hour and ESA support staff have been involved with helper-related tasks, including the preparation of materials for staff training on implementation of the helper regulation changes. There have been no other costs beyond normal program operating costs.

Question. What would be the impact of not getting the requested FY 1992 request?

Answer. As previously noted, largely to accommodate helper-related workloads, Wage and Hour does not plan to conduct any new Davis-Bacon wage surveys until FY 1992. The staff resources normally used to perform wage rate surveys will be used to act on already completed surveys and to process helper-related conformance requests.

If our FY 1992 request was not approved and conformance workloads develop as we expect, we would have to consider reducing the FY 1992 wage survey program. If this occurs, changes in construction industry wage structures may not be reflected in Davis-Bacon wage determinations in a timely manner. As reflected in our request, we believe that the adverse programmatic consequences of diverting existing resources to address these workloads would be unacceptable.

## POLICY ANALYSIS

Question: You are asking for an increase of $5,100,000 for policy analysis and evaluation in the Departmental Management appropriation. What amounts are requested for each of the major components of this request?

Answer: The requested increase of $5.1 million, about $3.8 million will be spent on activities mandated by Congress and about $1.3 million on activities that are discretionary but essential to the effective operations of the Department. The major projects, with estimated expenditures, that will be undertaken in these two categories are as follows:

1. MANDATED ACTIVITIES - These activities are necessary to meet statutory requirements.

Farmworker Surveys - to fulfill the Department's Congressional mandate under the Immigration Reform and Control Act (IRCA) of 1986 to estimate the adequacy of labor supply in seasonal agricultural services.

Effects of IRCA on the U.S. Labor Market - to fulfill the Department's Congressional mandate under IRCA to assess the effects of employer sanctions and newly legalized immigrants on the U.S. labor market.

Secretary's Advisory Group on Nursing Legislation - to carry out the Congressional mandate, under the Immigration Nursing Relief Act (INRA) of 1989, of this Advisory Group to assess the impact of the foreign nurses legislation on the nurses shortage in the U.S. and on the advisability of extending the provisions of the INRA beyond the 5-year period specified in the Act.

Training Wage Study - to fulfill the Congressional mandate to report to Congress by 1993 on the impact and employer usage of the training wage and on recommendations for improving the effectiveness of the training wage.

Alternative Disputes Resolution - to fulfill the Congressional mandate to utilize the alternative disputes resolution (ADR) mechanism as widely as possible in all government operations. In order to determine the applicability of the ADR mechanism to DOL programs and operations, it will be necessary to undertake a systematic program of policy analysis and evaluation.

2. Discretionary Activities - These activities are needed to begin a series of policy analysis and evaluation programs that are essential to fulfilling the Department's basic mandate in coming years. With increasingly severe budget constraints placed on our overall program resources, both for enforcing basic labor laws and in providing employment and training services, it is absolutely essential that the Department undertake policy analysis and evaluation activities that will provide the basis for significantly improving the way in which we utilize these program resources. Many of these potential improvements can only be

developed and implemented at the Departmental level because they cut across different DOL agencies. These include:

Improved Enforcement - to fund a program of policy analysis and evaluation that will: (1) design and implement evaluation studies of individual DOL agency enforcement strategies and programs; and (2) study the effectiveness of alternative options for improving overall enforcement, including the development of a single, integrated system which will summarize and guide all of the Department's enforcement activity.

Workforce Quality/Competitiveness of the American Workforce - to undertake a program of policy analysis and evaluation to identify more precisely the increasing demand for higher levels of skills, to assess the existing efforts to provide these skills through the basic education system, Federal-State job training programs, and private sector training, and to explore alternative ways of rationalizing our various education\training systems to better provide the education and skills training that is needed to improve the overall quality of the workforce and to maintain America's competitiveness in world markets.

Question: Why will these studies be performed by contractors, instead of in-house?

Answer: In general, these proposed studies need to be done by contractors because adequate staff expertise does not exist within the Department. The Department believes that the most effective way of handling policy analysis on a wide-ranging set of topics that change from year to year is to purchase the expertise to do in-house research, evaluation and policy analysis and has tended to purchase this expertise through contractors. We follow the model of retaining sufficient staff with the expertise to ensure that projects are adequately designed and monitored, but not sufficient to actually implement most projects using only DOL staff. For example, we propose to spend about $2 million in FY 1992 to continue implementing a nation-wide survey of seasonal farmworkers, to fulfill the statutory mandate under IRCA that the Labor Department estimate changes in labor supply in seasonal agriculture. The Department has very limited in-house expertise in the area of locating and interviewing seasonal farmworkers and therefore is purchasing most of this expertise through a contractor.

Question: Which of these activities could be postponed until FY 1993?

Answer: Of the proposed $5.1 million enhancement, we need about three-fourths to implement mandated activities. The remaining one-fourth presumably could be postponed until FY 1993, but such a postponement would delay policy analysis and evaluation activities that are needed to guide the Department as to how to use existing program resources in a more effective way.

## LEGAL SERVICES

Question. You are asking for 24 more legal services staff, costing an extra $1,334,000. What would be the impact of not getting these additional legal positions?

Answer. The program increases are based on the anticipated increased contest rates resulting from Congressional action in the FY 1991 budget to increase civil money penalties. These statutory changes will increase workload in the following program areas: Occupational Safety and Health Administration (OSHA), Mine Safety and Health Administration (MSHA), and the Wage and Hour Division of the Employment Standards Administration (ESA). The additional staffing increases being requested are modest increases based on our estimate of the additional workload in these areas caused by the penalty increases. Without the requested resources, the Office of the Solicitor (SOL) would have to cut back on other work or delay response to increased workload resulting from the increased civil money penalties that can now be assessed in OSHA, MSHA and child labor cases. The ultimate effect would be that SOL might be unable to collect the penalties as planned in the Budget Reconciliation Act.

In estimating the increased workload for these areas, the general assumption is that the increased penalty amounts that can be assessed may produce increased litigation. Employers will be more likely to incur the costs of litigation rather than simply paying the increased fine amounts.

## WAGE AND HOUR BACKLOG

Question. You are requesting a cut of 38 FTE and $1,959,000 in the Wage and Hour Standards program. This will cause your backlog of cases to increase by 4,300 during FY 1992.

Which types of wage-hour investigations will you curtail?

Answer. Approximately 1,500 fewer complaints, across all Wage and Hour enforcement programs, will be resolved in FY 1992 than we currently estimate for FY 1991. While complaint inventories will consequently increase, we believe they will remain manageable, permitting us to provide timely service to the majority of complainants.

Wage and Hour's directed investigations will also decrease by approximately 200. However, we will continue to carry out a strong directed enforcement program, particularly in the areas of farm and child labor and industrial homework.

Question. Specifically, how much are you cutting child labor investigations?

Answer. We do not plan to curtail our ongoing child labor enforcement efforts; child labor compliance is examined in all Wage and Hour investigations. In addition, our regions have planned and are (or will be) carrying out appropriate directed child labor enforcement efforts. We fully expect that our public awareness and educational programs, combined with our enforcement efforts, will contribute to effectively reducing the rate of child labor violations and noncompliance. This can only be achieved and sustained by continued compliance assistance and well-structured enforcement activity in this area.

Question. How long is your current backlog, and how much will it grow by the end of FY 1991?

Answer. As of February, Wage and Hour's FLSA and Government Contracts complaint inventory was approximately 24,500. This is expected to increase to approximately 27,400 complaints in inventory by the end of the fiscal year. Currently, a complaint in inventory takes an average of approximately four to five months to resolve; we expect that the growth in the complaint inventory will add an additional month (on average) to the time necessary for resolution.

## IMPACT ON ACTIVITIES IN SUPPORT OF WARN AND EDWAA

Question. What will be the impact of your proposal to curtail labor-management programs by 10 FTE and $678,000? Specifically, what activities in support of WARN and EDWAA will be discontinued?

Answer. In fiscal year 1990 we saw that there were going to be fiscal restraints in the near future and for some time to come. We saw a need to develop a network of labor and management practitioners in the field to help us deliver our programs. We embarked on a program to develop this network of retailers so we would not have to go one-on-one ourselves with practitioners to deliver our programs. We were able to reduce our expenditures and reduce our staff costs in that manner.

We have a similar strategy in 1992 to stretch resources. However, the Bureau will provide less training to states in the use of labor-management committees to expedite outplacement and retraining of workers dislocated by plant layoffs and closings.

## STATUS OF FUNDING FOR DISPLACED HOMEMAKERS PROGRAMS

Question. Please explain your rationale for not requesting appropriations to carry out the new displaced homemaker legislation, authorized at $35 million.

Answer. Funding for this program was not a part of the FY 1991 base of the Department's budget. The Omnibus Budget Reconciliation Act and the Budget Enforcement Act of 1990 set a cap on different components of the Federal budget. In order to provide financing for this new program in 1992, funding for other important programs would need to be reduced.

Question. What amount of JTPA block grant funds are currently being spent to assist displaced homemakers?

Answer. The requested data is not maintained in the Federal JTPA reporting system and therefore is not available.

Question. Do you plan to utilize any JTPA discretionary funds for displaced homemaker demonstration projects?

Answer. Because our pilot and demonstration procurement plan for FY 1992 has not yet been completed, it is difficult to say at this time whether any displaced homemaker projects ultimately will be included.

Question. How much is budgeted for the Displaced Homemakers Network in FY 1992?

Answer. Since we have not received our FY 1992 budget, we are unable, at this time, to determine what flexibility we will have to continue to fund the National Displaced Homemakers Network. Specific funding for this project is not included in the 1992 request. However, displaced homemakers may be eligible for services under the Job Training and Partnership Act and may receive job search assistance from the employment service.

## NEGLECT OF NON-COLLEGE YOUTH

Question. A recent GAO report highlights the fact that our nation does very little to prepare the 70 percent of our young people who will not go on to college, but who nevertheless form the backbone of our economy. According to GAO, we spend only one-seventh as a nation per capita on preparing this group of people for the workforce as we do the remaining 30 percent that go on to higher education.

How do you explain the fact that our society has been neglecting the workforce preparation of its non-college youth?

Answer. Our system of preparing youth for the workforce was designed to meet needs that were valid for a previous era but now no longer hold. Previously, the economy offered many more semi-skilled manufacturing jobs which did not require much education beyond high school. Now, because of new production processes and a higher rate of job and occupational change, individuals need a higher and broader level of skills to be able to perform effectively in current and future jobs.

The school-to-work transition initiative at the Department of Labor, which involves demonstration projects offering high school students paid, structured on-the-job training linked to related classroom learning, offers a replicable way to enhance the preparation of our youth for the workforce and to provide them with motivation to stay in school and gain the skills they will need to succeed in the labor market.

Question. How do we focus greater attention on the need to improve non-college professional and technical education?

Answer. First, we need to define work readiness skills. Too many students leave high school lacking the skills necessary for entry level work. To help ensure that new workforce entrants have work readiness skills, we need to set high educational standards. The Secretary's Commission on Achieving Necessary Skills (SCANS) is working to define the basic skills and achievement levels needed by high school graduates to gain access to jobs with career potential. SCANS' first major report should be published this spring.

Second, we need to improve the transition from school to work for high school graduates. Not only do students need the requisite skills for work, but they also need to understand how these skills apply to the workplace. The Department of Labor has launched school-to-work transition demonstrations to test alternative learning systems which better integrate classroom and worksite instruction. These alternatives are intended to help students make the connection between school achievement and work opportunities, motivating them to raise their achievement levels and complete their education.

The Department has also awarded seven Youth Opportunities Unlimited (YOU) grants targeting an integrated array of services to youth living in severe poverty in rural areas and inner cities. These demonstrations are designed to improve education and employment opportunities for disadvantaged youth.

---

## QUESTIONS SUBMITTED BY SENATOR BYRD

### CHARLESTON JOB CORPS CENTER

Question. Funding was provided in FY 1991 for the relocation of the Charleston Job Corps Center. What is the current status of this project, cost estimate and timetable for completion of the project?

Answer. The Department of Labor has recently completed a market survey to identify potential sites. The results of this survey have identified the Vaughn Site, located off Greenbrier Street on the northeast side of Charleston as a suitable site for relocation of the Charleston Job Corps Center.

Further, the Department will perform an environmental impact study on the Vaughn Site beginning on March 18, 1991. Results from this study will be available for review by March 25, 1991. Assuming there are no problems identified which will preclude the use of this site, the Department will initiate steps to acquire the property and proceed with advertising for an architectural engineering (A&E) firm. Following is the projected schedule for completing construction of the facility once the environmental assessment study has been completed:

| | Time Frame in Months |
|---|---|
| Award A&E contract........................ | 5 |
| Complete detailed engineering drawings.... | 12 |
| Award construction contract............... | 3 |
| Accomplish construction work.............. | 15 |
| | 35 |

The total cost of this project is estimated at $14.7 million, which is being financed by the 1991 Job Corps appropriation.

## STAFFING DECREASE IN TECHNICAL SUPPORT

Question. The FY 1992 budget indicates that there will be decreases in staffing in Technical Support. Where are those FTE currently located and what is the cost associated with restoring those FTE in FY 1992?

Answer. These five FTE are located in the Approval and Certification Center at Triadelphia, West Virginia. The total cost associated with restoring these FTE in fiscal year 1992 is $293,000.

## NATIONAL MINE HEALTH AND SAFETY ACADEMY

Question. Please provide the budget for the National Mine Health and Safety Academy in FY 1990, FY 1991 and the funding level proposed for FY 1992. Also provide for those same fiscal years the number of FTE and the number of people on board as of September 30 of each fiscal year (please include a separate category for instructors).

Answer. The funding, FTE and end of year employment levels for the National Mine Health and Safety Academy, including instructor employment levels, are shown below for fiscal years 1990 through 1992:

| | 1990 | 1991 | 1992 |
|---|---|---|---|
| Funding | $5,626,000 | $7,073,000 | $6,092,000 |
| FTE | 78 | 78 | 78 |
| On-board employment | | | |
| Instructors | 11 | 14 | 14 |
| Academy total | 78 | 78 | 78 |

Question. How much revenue was generated by the National Mine Health and Safety Academy in FY 1989 and FY 1990?

Answer. The revenue amounts collected by the Academy in fiscal years 1989 and 1990 for the use of its facilities and classes are shown below:

| | 1989 | 1990 |
|---|---|---|
| Amount collected | $126,367 | $124,771 |

Question. Concerns have been raised that there is a shortage of instructors at the Academy and that requests for various types of classes are being turned down. Please provide me with a report on the number of requests for classes that have been received and the number of classes actually provided.

Answer. Although we do not have a comprehensive system that tracks requests for training, very few, if any, requests are denied in their entirety. Generally negotiations are conducted with the prospective client to reach an agreeable date when the Academy can accommodate the request. When appropriate, if there is an alternate source for the training, the client is referred to that source.

Question. The FY 1991 appropriation provided $1.5 million for 3 FTE and construction of a fire training facility at the Mine Academy. What is the current status of that project?

Answer. MSHA established a Project Steering Committee in December 1990 to coordinate all phases of the fire fighting training facility. The Committee met in January 1991 and developed a conceptual design for the facility and a workplan. This workplan includes curriculum assessment, an architectural and engineering study, permits, and equipment needs.

MSHA met with representatives from industry associations, organized labor, and states in March. The purpose of this meeting was to discuss industry training needs and to determine if these needs had an impact on the facility conceptual design. Additional meetings will be scheduled with these representatives to obtain more input as needed and to advise them of the progress being made.

Work is currently underway to develop final design specifications for the facility, and a bid proposal is being prepared that will result in the obligation of funds in fiscal year 1991.

## BLACK LUNG FIELD OFFICES

Question. Are there any plans to close any Black Lung Field Offices in FY 1992?

Answer. There are no plans to close any Black Lung Field Offices in FY 1992.

Question. How much is in this budget to support Black Lung Field Offices?

Answer. The budget contains approximately $244,000 for field office operations, consisting of approximately $230,000 for salary and benefits and approximately $14,000 for rent and telephone service.

Question. Please provide a list of where Black Lung Field Offices are located and the staffing associated with each.

Answer. The following list indicates field office locations:

Beckley, WV
Bluefield, WV
Logan, WV
Madison, WV
Elkins, WV
Morgantown, WV
Wise, VA

The above offices employ six full-time staffers. The Morgantown and Elkins offices, however, are both handled by the same individual, who spends four days per week in Morgantown and one day per week in Elkins.

Question. Are there any Black Lung Field Offices that are currently unstaffed?

Answer. All offices are staffed. The Morgantown and Elkins offices, however, are staffed by the same individual, who spends four days per week in Morgantown and one day per week in Elkins.

## BLACK LUNG CLAIMS PROCESSING

Question. What is the current length of time of black lung claims processing at the Office of Administrative Law Judges.

Answer. At the present time, a total of 13 months is required for the processing of black lung claims at the Office of Administrative Law Judges. This case-processing timeframe represents an improvement of three months from actual timeframes recorded during fiscal year 1990. With the completion of the transfer of pending 'Lukman' cases from the Benefits Review Board, case processing timeframes for the black lung caseload within the Office of Administrative Law Judges are projected to improve to 11 months in fiscal year 1992 with the current level of authorized staff.

Question. What is the current status of the black lung claims backlogs at the Benefits Review Board, and what steps are being taken to ensure that those backlogs are eliminated.

Answer. The backlog of black lung cases at the Benefits Review Board was reduced significantly during fiscal year 1990, and is in the process of being sharply reduced again during fiscal year 1991. The Benefits Review Board projects that the backlog of its black lung cases will be eliminated during fiscal year 1992. An average of slightly more than two years was required for the processing of black lung cases in the Benefits Review Board (BRB) during fiscal year 1990. By the end of fiscal year 1991, the average case-processing timeframes at the BRB will be reduced to 14 months. This case-processing timeframe is projected to be reduced to 10 months by the end of fiscal year 1992.

A total of 5,662 black lung cases were pending before the BRB at the beginning of fiscal year 1991. By the end of the fiscal year, only 4,137 black lung cases are projected to be pending without disposition. This total represents a drop in the pending caseload of 1,525 cases during fiscal year 1991, a reduction of 27%. Only 2,913 black lung cases are projected to be pending at the BRB without disposition at the end of fiscal year 1992.

The sharp reduction in the backlog of cases projected for fiscal year 1991 reflects, in large part, the impact of the additional funding provided for the BRB by the Congress in fiscal year 1991. With the additional funding provided by the Congress, the BRB has been assured of stable staffing levels during the fiscal year. The budget request pending before the Congress at the present time continues these staffing levels into fiscal year 1992 and provides adequate funding for these positions. The BRB is in the process of recruiting staff attorneys to further reduce the backlog of pending black lung cases. The requested staff level is needed to continue reducing the backlog in FY 1992.

Question. Are there any staffing cuts proposed at the Benefits Review Board in FY 1992? If so, please provide a list of FTE's and costs associated with restoring those positions.

Answer. There are no staffing cuts proposed for the Benefits Review Board in FY 1992. Approval of this budget request as presented would enable the BRB to staff to its authorized level of 181 FTE.

## QUESTIONS SUBMITTED BY SENATOR BUMPERS

### LIMITED SCOPE AUDITS

Question: I am a co-sponsor of the measure to eliminate the limited scope audits in which the independent auditors may be instructed not to examine the safety of assets held in federally regulated entities such as savings and loans. What is your position on this legislation?

Answer: Generally, under ERISA, employee benefit plans which hold their assets in trust and have more than 100 participants are required to engage an independent public accountant (IPA) to conduct an annual financial audit. Audited financial statements (and accompanying schedules) together with a report on the fairness and consistency of their presentation, must be filed with the Form 5500 Annual Report. The audit requirement is intended to ensure the integrity of the plan's recordkeeping and the financial reporting and disclosure process which is incorporated in the Form 5500 annual reports.

ERISA, however, also includes the so-called "limited scope exemption" which allows plan administrators to exclude assets held by regulated financial institutions (banks, insurance companies or similar entities) from the scope of the audit. In lieu of examination of the records of the financial institution, the auditor accepts the financial institution's certification that the statement of assets received by the plan is accurate for purposes of the plan's audit. This limitation generally results in the issuance of no opinion by the auditor, since he cannot accept liability for the accuracy of the certification. The net effect of the limitation and qualified opinion is to obviate much of the value of the audit.

During the last Congress, the Department proposed enforcement legislation, which included an amendment to ERISA, consistent with your proposal, to repeal the "limited scope exemption." I am currently reviewing the specific elements of the proposal to determine whether any modification should be made in the Department's proposal. I intend to re-propose legislation to strengthen the enforcement provisions of ERISA.

### HAZARD COMMUNICATION

Question. I understand that DOL received numerous responses to OSHA's May 17, 1990, request for public comment and information on improving the presentation and quality of information transmitted under the Hazard Communication Standard. What problems with the Hazard Communication Standard were most frequently mentioned?

Answer. OSHA received nearly 600 responses during the 90 day comment period on the May 1990 notice. While the Agency has not yet completed its analysis of the comments, preliminary findings indicate that the issue of greatest concern to the respondents was the format or order of information for the material safety data sheet (MSDS). The majority of the commenters suggested that a standardized format or order of information be developed. Many respondents also supported standardization of label information. Commenters also indicated that improvements in the presentation of information on the MSDS would be helpful. These would include reviewing the type of language used to convey information about hazards and precautionary measures.

Question. What is OSHA planning to do in response to these comments?

Answer. OSHA has not completed its determination as to what action will be taken to respond to the comments.

Question. The Department has funded studies by outside contractors to evaluate different aspects of the Hazard Communication Standard. Are any of these studies complete? If so, what were the findings about the Standard's effectiveness?

Answer. Draft study reports have been received, and are being reviewed by OSHA. We do not have final reports for any of the studies upon which it would be appropriate to comment.

Question. Do you believe it will be necessary to revise the standard?

Answer. Until the outside studies are completed and the public comments fully analyzed, it would be premature to speculate on whether it will be necessary to revise the standard.

## INVESTIGATIVE AUTHORITY

Question. I remain concerned about the 1989 opinion by the Justice Department regarding the scope of the investigative authority of the Inspectors General. What portion of the 1,200 cases that were suspended following that ruling dealt with worker health and safety?

Answer. The Office of Inspector General's Semiannual Report for the period April 1, 1989 through September 30, 1989 reported that the Office of Investigations initially suspended activity on approximately 1,200 (actual 1,192) criminal cases to determine the effect of the Office of Legal Counsel, Department of Justice opinion. Of that number, there was one Mine Safety and Health Administration related case and the U.S. Attorney requested that OIG continue its investigation. There were five Occupational Safety and Health Administration cases, of which two were closed and three were referred to the Deputy Secretary of Labor. So there was a total of six cases which bore on worker health and safety.

Question. How has this opinion affected OSHA's ability to protect the health and safety of workers?

Answer. OSHA's ability to protect workers' health and safety has not been compromised by this opinion. The opinion served to clarify both OSHA's investigative authority in safety and health cases and the appropriate role of the Office of the Inspector General. OSHA has been making full use of this authority, as it has in the past, to ensure firm, fair, and consistent enforcement.

### OUACHITA JOB CORPS CENTER

Question: I am very pleased that the Ouachita Job Corps Center is aggressively moving ahead to expand into a coeducational facility. I understand that construction of the new coed dorm began in 1990 but has encountered delays because of the complexity of the design and the limitations of the VST program. Will the facility be completed for coed purposes as planned by 1992?

Answer: No. The dormitory is now scheduled for completion in 1993 using the vocational skills training (VST) approach in which much of the work is accomplished as hands on training by students in the construction trades. The estimated cost of this dormitory is approximately $200,000.

Question: If not, is contracting out for the completion of the facility an option?

Answer: We do not regard contracting out as a viable option. The cost for contracting out for the dormitory is estimated at $850,000. This would insure completion in 1992, but would escalate the cost by $650,000. We do not feel that activating the dorm a year ahead of the current schedule provides adequate justification for such a large cost increase.

## QUESTIONS SUBMITTED BY SENATOR REID

### LEAD STANDARD

Question. OSHA's general lead standard for workers was promulgated in 1978. Among other provisions, this standard requires removal of an employee from exposure to lead when his average blood lead level exceeds 50 micrograms of lead per 100 grams of blood. This general standard is criticized for no longer being adequately protective of workers. Since 1978 much work has been done to document the adverse effects of lead on both children and adults, and the Centers for Disease Control is now considering lowering the definition of childhood lead poisoning to as low as 10 micrograms per deciliter. It seems to be past time for OSHA to seriously and expeditiously review its general lead standard, especially the blood lead level that triggers removal of a worker from lead exposure. What plans does OSHA have to review and revise its general lead standard?

Answer. New lead health effects data is currently being reviewed by OSHA as part of the rulemaking for a lead standard in the construction industry. If the record in this rulemaking for the construction standard supports the establishment of different exposure limits or blood lead levels, such levels will also be considered for revision of the general industry lead standard.

Question. When will it propose and take final action on such revised regulations?

Answer. A revision of the general industry lead standard would be initiated if the record developed in the construction lead standard rulemaking sufficiently demonstrates that there is significant risk of material impairment to employees' health at the existing levels. If a revision were initiated, it would be difficult to project how long that process would take since any changes to the standard would follow the regulatory process required by the OSHAct, and a final standard would be promulgated at the conclusion of that process.

Question. What additional resources, if any, does OSHA need to conduct an expeditious review and revision of the regulation?

Answer. No additional resources would be required. Personnel would be made available to staff the lead rulemaking effort should a revision of that standard be initiated.

## LEAD STANDARD ENFORCEMENT

Question. The Toxic Substances Subcommittee that I chair held a hearing on the Administration's lead strategy on February 21. At the hearing, Assistant Secretary of Labor Scannell's testimony recognized the importance of enforcement of the existing lead standard for workers. However, information furnished to the Subcommittee by OSHA indicates that the number of inspections for violations of the lead standard declined from 575 in FY 1988 to 424 in FY 1990, with a commensurate decline in the number of cited violations from 1940 to 1590. Why has OSHA decreased its enforcement effort concerning the existing lead standard?

Answer. Although the number of total inspections in which the lead standard was cited decreased in the past fiscal year, this should not be seen as a decrease in OSHA's enforcement of the lead standard. Rather, the decrease in inspections with lead violations more likely reflects a decrease in the number of complaints and referrals of violations of the standard received by OSHA. Such complaints and referrals often direct an unprogrammed OSHA inspection to a location at which a violation of the lead standard exists. The number of planned programmed inspections involving lead standard violations remained substantially the same, decreasing by only seven inspections nationwide between FY 1989 and FY 1990.

Question. What resources is OSHA devoting to enforcement of this standard in FY 1991? What resources will be allocated for such enforcement in FY 1992? How many inspections will be conducted in each of these years? If less than FY 1988, why?

Answer. OSHA does not separately identify resources devoted to enforcement of specific OSHA standards. Instead, the agency will continue to respond to all referrals and complaints of alleged violations of the lead standard. Planned inspections are based on the previous history of serious OSHA violations. Generally, these are not specifically targeted to address any one specific standard. Consequently, programmed inspections concerning violations of the lead standard are expected to continue at about the same level.

In addition, two regions are planning special enforcement programs focused on violations of the lead standard. OSHA's New York region is working with the New Jersey Department of Health to create a referral system whereby physicians and blood lab workers will notify OSHA of cases of elevated blood lead levels. OSHA is anticipating approximately 48 referrals as a result of this agreement in FY 1991. OSHA's Kansas City region has initiated a special enforcement program of radiator repair shops. Fifteen inspections are targeted with a focus on lead and cadmium exposure.

### FUNDING FOR LEAD ACTIVITIES

Question. Did OSHA request any additional funding for lead activities in the FY 1992 budget, as HHS and HUD did? If not, why not?

Answer. OSHA did not specifically request additional funding for lead activities in FY 1992. The Department of Labor's budget request for FY 1992 reflects funding priorities for all of the Department's programs within the spending limits worked out between Congress and the Administration. It is the Department's position that lead-related activities of OSHA can continue to be handled within the current mix of programs and resources available to OSHA.

## QUESTIONS SUBMITTED BY SENATOR ADAMS

### OLDER AMERICANS ACT

Question: What is the rationale for the proposed decreased funding -- and resultant loss of nearly 8,000 job slots -- for the Title V program (of the Older Americans Act), especially in view of the fact that the Committee recommended last year that two national organizations serving American Indians and Pacific/Asian Americans receive increased funding from the FY '91 appropriation, which did not happen?

Answer: The proposed budget is constrained by the limitations imposed by the Deficit Reduction Act. The amount proposed for the SCSEP is consistent with last year's DOL budget proposal. Nearly all of the ETA programs are reduced or maintained at their prior year levels. The SCSEP budget must be considered in the context of the total DOL budget and the needs that must be met given the Federal deficit and the spending cap on domestic discretionary programs.

Question: The Senate Appropriations Committee recommended that for program year 1991-1992 the Department increase the level of funding to national grantees serving American Indians and Pacific Islanders/Asian Americans by $2.5 million each. According to the budget justifications; DOL has apparently decided not to increase funding for these two groups.

The President's budget calls for a more than 12 percent reduction in the Title V program. For FY '91, Congress appropriated $390.36 million for the program, and the Administration proposes to reduce the funding to $342.814 million in FY '92.

Given the increase in the Federal minimum wage that is to take place in April 1991, is the Department recommending any future increases in the job slot cost for the Title V program, beyond what has been scheduled for the program year 1991-92?

Answer: No. The current unit cost estimate for PY 1991 is $6,061. Our computation of this unit cost incorporates the minimum wage increase that is to take place in April 1991, as well as the earlier increases.

Question: To what extent will increases in unsubsidized job placements compensate for the loss of employment positions?

Answer: The Department does not expect a marked increase in unsubsidized job placements. However, turnover rates in this program are very high. Combined with private sector job placement, turnover should enable program participation to shrink through attrition. No current participants will lose their job.

Question: What is the anticipated unsubsidized job placement rate for program year 1992-93? And how does this rate compare to recent prior years?

Answer: We anticipate that the unsubsidized placement rate for program year 1992 will be approximately 22 percent, the same or near the placement rate for recent years.

Question: Last year I questioned how the DOL was defining "family-of-one" in determining eligibility for JTPA (Job Training Partnership Act) programs. I plan to continue to pursue this matter. My concern is that DOL's narrow definition of "family-of-one" adversely affects many older women. For example, married older women who do not have access to their spouses' finances and are in abusive situations may not be eligible for JTPA programs according to DOL's definition. Before the two directives which were issued by the DOL last year, the States' governors were given the flexibility to define "family-of-one." And some 40 states had used a "family-of-one" definition for persons 55 years and older. Will the DOL consider returning the authority to define "family-of-one" to the governors?

Answer: The Department is very much aware that there are individuals in need that cannot be served immediately under the normal process of eligibility determination for JTPA. However, the Act does establish a definition of "economically disadvantaged" for eligibility purposes which is based, in part, upon family membership and family income. The Department cannot ignore this statutory provision by allowing the governors to establish artificial family definitions which are inconsistent with the Act.

The Department's policy interpretation, that the basic definition of family "should be based upon relationship (blood, marriage or adoption) in the immediate family unit", and that "such a unit would, at a minimum, include a husband, a wife and their dependent children living under the same roof", still stands.

The Governor still retains flexibility in the definition of family under the regulations and States may request a review of definitions of family. A State policy that "persons aged 55 years or more, single, divorced or widowed, and living alone or with adult children or relatives, or in communal living quarters" might be considered a family-of-one is consistent with the Department's policy interpretation. Likewise, a State policy providing that an individual, 55 years or older, single, divorced or widowed, "who was living with a family but is not the head of household or the spouse of the head of the household" be considered a family-of-one would be consistent with the policy.

Of course, the Act does provide a window under which up to ten percent of those served by JTPA may be individuals who are not economically disadvantaged but have specific barriers to employment. Some of the individuals about whom you express concern could be served under this provision.

---

## QUESTIONS SUBMITTED BY SENATOR SPECTER

### DECLINE IN COAL MINE INSPECTIONS

Question. Madam Secretary, I am concerned about the continued elevation of fatalities and injuries in the coal industry. Why did coal mine inspections in FY 91 decline by over 20 percent?

Answer. Due to budget uncertainties at the end of FY 1990 and the beginning of FY 1991, vacant inspector positions were not filled as originally planned. While MSHA now has an aggressive hiring plan in place to increase the inspector presence to the budgeted level, these inspectors will be in training during FY 1991 and will not be authorized to conduct inspections until FY 1992. Therefore, nonmandatory inspections will decline in FY 1991, but all mandatory inspections will be completed.

Question. How will you increase inspections in FY 92 with the same level of enforcement staff?

Answer. The inspectors hired in FY 1991 will complete their training and begin inspecting mines independently in FY 1992.

## COAL ENFORCEMENT STAFFING

Question. Wouldn't it be prudent to restore coal enforcement staff to at least the FY 90 level?

Answer. Since the FY 1991 coal enforcement staffing level provides sufficient resources to complete all mandated inspections, this same level is proposed for continuation in FY 1992.

Question. How much would be necessary to restore the 18 positions in coal enforcement in FY 92?

Answer. A total of $868,000 would be necessary to restore the 18 positions in coal enforcement in FY 1992.

## JOB CORPS SUBSTANCE ABUSE PREVENTION ACTIVITIES

Question. Madam Secretary, last years budget proposed extending the Corps drug testing and treatment pilot project from 20 sites to all Job Corps centers. Will this be completed in the 1991 program year?

Answer. The Substance Intervention Program (SIP) is currently in operation at 20 centers. It involves testing for drugs, individual and group counseling for those testing positive, and preventive education for all students. This program will be implemented in all remaining Job Corps centers by December 1991.

Question. What is the data showing about the incidence of drug and alcohol abuse among incoming Job Corps students?

Answer. Results of the pilot SIP program showed that over 90 percent of all incoming students admitted to alcohol and drug abuse prior to entering Job Corps. Approximately 30 percent tested positive for at least one illegal drug (entry screening for alcohol is not done since alcohol is metabolized at a faster rate than other drugs and renders such screening impractical). Test results have shown that 27.6% of all students tested used marijuana, 4.4% cocaine, and 1.4% PCP, opiates, amphetamines and/or barbiturates.

Question. Are you aware of any Job Corps Centers accessing other federal substance abuse prevention programs?

Answer. We are not aware of any Job Corps centers accessing other Federal substance abuse prevention programs. However, since August 1990, the Job Corps has been working with the Office of Treatment Improvement, Alcohol, Drugs and Mental Health Administration (ADAMHA), Department of Health and Human Services, to develop a research and demonstration project to evaluate the impact and cost-effectiveness of an intensive program to be funded by that office.

The demonstration, expected to last three full years, will be implemented in six Job Corps centers and provide for drug testing, specialized counseling staff and specific medication to counteract drug-related depression.

## JOB TRAINING FOR THE HOMELESS

Question. The Stewart B. McKinney Homeless Assistance Amendments Act of 1990 authorizes the Job Corps to provide services to eligible homeless individuals and families. Does the Department have plans to provide services under this new authority? If so, how will it be implemented? If not, why?

Answer. The Department plans no programmatic or design changes in Job Corps in response to this new legislative authority. Even without these legislative amendments, Job Corps has been able to provide residential training and education services to homeless young people, ages 16 to 21. For example, we have a longstanding agreement with the City of New York under which homeless youth are being enrolled in the Job Corps center in Glenmont, New York. Under this agreement, the City reimburses the Department of Labor for the provision of special counseling services and clothing allowances that are not normally available from Job Corps. Otherwise, these youth are treated as normal Job Corps enrollees. We plan to promote similar arrangements between Job Corps centers and other State and local agencies.

As to meeting the needs of entire families in a residential setting, we believe that this would go well beyond the current institutional expertise and physical capabilities of the Job Corps program. Apart from the fact that we have dormitory style residences that are not suited or adaptable as family housing units, the Job Corps has not been structured or staffed to provide the comprehensive range of social services that are needed by homeless families.

Question. Would a separate appropriation be necessary for this new authority to be implemented?

Answer. No special appropriation is needed to serve homeless youth who are otherwise eligible for Job Corps services. However, if the intent is to restructure Job Corps centers to provide residences and comprehensive services to entire families, it is clear that a special appropriation would be needed. The authorizing amendment contains the phrase "subject to the availability of appropriations therefor", which implies that a specific appropriation is needed in order to implement the broader range of program services discussed in the amendment.

Question. The budget proposes "transferring" funding for the Job Training for the Homeless Demonstration program to the Department of Housing and Urban Development in FY '92. How will this impact upon the existing demonstration projects? Will they continue to receive support in FY '92 even though the funds are transferred to HUD?

Answer. The Administration has decided to consolidate McKinney Act homeless responsibility and funding into a smaller number of demonstration programs that will fund local programs to develop innovative comprehensive service strategies that hold promise of helping people to leave homelessness. This consolidation will build upon what we and other Departments have learned in our demonstration program.

The existing demonstration projects are supported entirely with McKinney Act funds. When resources are transferred to HUD, DOL grantees may compete for funds and will be encouraged to submit proposals that demonstrate a comprehensive approach to serving the homeless.

Question. What has been learned from the demonstration programs to date regarding job training for homeless individuals?

Answer. These programs have been effective in assisting homeless persons to become more economically self-sufficient through employment and upgraded housing. To illustrate, in ETA's Job Training for the Homeless Demonstration Program, after two years of program activity (as of September 30, 1990), approximately 10,800 clients have received training and 5,400 have been placed in unsubsidized jobs. Approximately 40% of those placed in jobs were employed 13 weeks later.

Question. What are the impediments to providing job training to homeless individuals?

Answer. Our demonstrations have shown that various sorts of impediments complicate the provision of job training to homeless individuals. Many impediments can be found among the demographic characteristics of homeless persons. Most common are alcohol and drug abuse, lack of education, and emotional and mental illness. Physical disability and a criminal record also are significant impediments. A substantial number of the homeless manifest more than one impediment.

To take advantage of job training, homeless individuals require effective social support systems, outreach services and case management that can identify needs and ensure that these needs are met. A relevant factor here is that this group seems to experience much poorer health (in terms of both illnesses and injuries) than that of the general population.

Personal impediments can cause a job training program to have dropout and turnover problems, particularly if needed supportive services are not readily available in the surrounding community.

## BACKLOG IN PROCESSING OF BLACK LUNG CLAIMS

Question. Madam Secretary, have the backlogs in processing Black Lung Claims been eliminated at the Benefits Review Board and at the Office of Administrative Law Judges.

Answer. During fiscal year 1990, the Office of Administrative Law Judges had eliminated its backlog of black lung cases. However, a final decision in the 'Lukman' case meant that approximately 1,400 black lung appeals pending before the Benefits Review Board were transferred almost in block back to the Office of Administrative Law Judges. A slight backlog in black lung claims processing is now being seen at the Office of Administrative Law Judges as this block of 'Lukman' cases is processed. This backlog will be essentially eliminated by the end of fiscal year 1991, and will eliminated in total during fiscal year 1992.

The Benefits Review Board (BRB) has continued to reduce its backlog of pending black lung claims. In fiscal year 1990, the total case processing timeframe for black lung cases pending before the BRB was approximately 25 months, which included a period of 13 months in which black lung claims were in actual backlog status. During fiscal year 1991 the BRB is projected to reduce its black lung case processing timeframe to approximately 14 months, which includes a period of only two months in which black lung claims were in actual backlog status. In fiscal year 1992 we believe that the backlog of black lung claims will be eliminated at the BRB, and that black lung claims will be processed within one year of receipt at the Board.

Question. Is the Department aware of any judicial action which might lead to new backlogs?

Answer. The Supreme Court of the United States granted certiorari in Pauley v. Bethenergy Mines, Inc. and consolidated cases. In essence, the issue to be resolved is whether 30 U.S.C. Section 902(f)(2) invalidates the U.S. Department of Labor's interim rebuttal regulations (20 CFR 727.203(b)(3) and (b)(4)).

These consolidated cases may result in the resolution of certain issues left unresolved by the Supreme Court in Pittston Coal Group v. Sebben 488 U.S. 105 (1988).

While we do not know the number of cases which would be affected, in the Sebben's case the Supreme Court used the figure of 90,000 possible claimants. We think a more realistic figure is, assuming the worst, 20,000 or so cases would be referred to Office of Administrative Law Judges from the Office of Worker Compensation Programs, if the court found for Pauley.

---

# QUESTIONS SUBMITTED BY SENATOR GORTON

## IMPLEMENTING DISPLACED HOMEMAKERS SELF-SUFFICIENCY ASSISTANCE ACT

Question: The President signed the Displaced Homemakers Self-Sufficiency Assistance Act in November to provide needed employment assistance to the nation's 16 million displaced homemakers. How will the Department implement this program?

Answer: Funding for this program was not a part of the FY 1991 base of the Department's budget. The Budget Enforcement Act of the Omnibus Budget Reconciliation Act of 1990 sets a cap on different components of the Federal budget. If Congress appropriates funds for this program, we will develop an implementation plan. It should be noted that displaced homemakers may be eligible for services under the Job Training Partnership Act and may receive job search assistance from the employment service.

## PROMOTING NONTRADITIONAL TRAINING EFFORTS FOR WOMEN

Question: What efforts will the Department undertake to promote nontraditional training efforts for women to address the continued occupational segregation of women in traditional female training and jobs?

Answer: The Department has examined its activities related to women in skilled trades and has put together an aggressive plan to more effectively coordinate and enforce the Department's responsibilities in this area. Three agencies have major responsibilities in this area: the Bureau of Apprenticeship and Training (BAT/ETA), the Office of Federal Contract Compliance Programs (OFCCP/ESA), and the Women's Bureau. The initiative contains four major components: enforcement, education and technical assistance, recruitment, and retention.

The Women's Bureau will encourage the retention and placement of women in the skilled trades across the country through its Workforce Quality Clearinghouse model pre-apprenticeship and apprenticeship programs for training women in nontraditional skills; the Bureau will encourage the expansion to other federal building projects of the Federal Office Building Construction Project model program created by Stein & Company, Chicago, Illinois, and the Women in Skilled Trades Program (WIST) model program created by the Oakland, California Private Industry Council. It will continue it outreach activities with the National Tradeswomen Network and serve as a liaison with other DOL agencies. The Bureau will participate with OFCCP and BAT on their outreach and research activities to promote women in nontraditional careers.

In the area of education and technical assistance, the Bureau will publish a Directory of Nontraditional Training and Employment Programs for Women, an annotated listing by state of the various state, federal, local and community programs and organizations that assist women in obtaining skilled, nontraditional jobs and related training. This directory will also include related information from the Workforce Quality Clearinghouse data/information base.

## WOMEN IN THE WORKFORCE

Question: The glass ceiling project focuses efforts on only a small number of women who have reached the top levels of their profession. What can the Department do to expand this project to enhance the mobility and opportunity of all women workers so that they are fairly considered for promotion at all levels?

Answer: The "glass ceiling" project is intended to insure that women and minorities meet no barriers to moving from entry level jobs to middle management and up -- as high and as far as their talents and abilities take them. The project is just one of several efforts of the Department to ensure equal employment opportunity for women at all levels. OFCCP has at least three other activities underway designed to enhance the employment opportunities for women through affirmative action:

1. Routine compliance reviews: OFCCP conducts between 5,000 and 6,000 compliance reviews each year. A

focus of every one of these is to determine that there are not barriers to the advancement of women and that the contractor is making good faith efforts to take affirmative actions to ensure equal employment opportunity.

2. Women in nontraditional jobs: The Department has been examining the barriers and opportunities for advancement of women in the construction and aerospace industries. The two task forces are making specific recommendations to improve the affirmative action compliance of these two industries.

3. OFCCP and BAT joint enforcement: The OFCCP and the Bureau of Apprenticeship and Training will join forces to improve the enforcement of the equal employment opportunity requirements of 29 CFR Part 30 for apprenticeship programs. These two agencies will draw upon the expertise and experience of the Women's Bureau to enhance the affirmative action results of these efforts.

The "glass ceiling" project is only one part of our total enforcement strategy designed to enhance the employment opportunities for women as well as minorities, individuals with disabilities and Vietnam era and disabled veterans at all levels of employment.

## OFFICE OF INSPECTOR GENERAL

## STATEMENT OF JULIAN W. De La ROSA, INSPECTOR GENERAL

ACCOMPANIED BY:

- E.J. GERMAN, ASSISTANT INSPECTOR GENERAL FOR RESOURCE MANAGEMENT AND LEGISLATIVE ASSESSMENT
- GERALD W. PETERSON, ASSISTANT INSPECTOR GENERAL FOR AUDIT
- IRVING A. BASSETT, JR., ASSISTANT INSPECTOR GENERAL FOR INVESTIGATIONS
- GUSTAVE A. SCHICK, ASSISTANT INSPECTOR GENERAL FOR LABOR RACKETEERING
- JAMES E. McMULLEN, DIRECTOR, OFFICE OF BUDGET

### INTRODUCTION OF ASSOCIATES

Senator HARKIN. We are now turning to the inspector general of the Department of Labor.

We will now hear from the Labor Department's Inspector General, Mr. De La Rosa. The inspector general's office is responsible for conducting broad oversight of Department of Labor Programs. A major part of that responsibility includes recommending policies to detect and prevent fraud, waste, and abuse in Labor Department programs, as well as the investigation of potential criminal activities.

Your entire prepared statement will be made a part of the record, Mr. De La Rosa, and we ask you to give a brief oral summary of your budget request. Again, welcome back to the committee, and please proceed as you so desire.

Mr. DE LA ROSA. Thank you, Mr. Chairman. With your permission, I would like to introduce my associates for the record.

Senator HARKIN. Please.

Mr. DE LA ROSA. At my extreme left, your right, I have Mr. Peterson, who is the assistant inspector general for the Office of Audit. To my left is Mr. German, who is the assistant inspector general for Resource Management and Legislative Assessment. To my immediate right is Mr. Schick, who is the assistant inspector general for the Office of Labor Racketeering. To his right, Mr. Bassett, who is the assistant inspector general for the Office of Investigations. And of course you know Mr. McMullen, who is with the Department's Budget Office.

### SUMMARY STATEMENT

I will very briefly summarize the statement which as you indicated will be in the record in its entirety.

Mr. Chairman, members of the subcommittee, I appreciate this opportunity to appear before you to discuss the fiscal 1992 budget request for the Office of Inspector General of the Department of Labor. The 1992 budget request of the Office of the Inspector General is $51,326,000. This represents a net increase of $2,825,000 above the 1991 level. This requested increase will cover selected mandatory increases and allow the Office of Inspector General to finance 541 full-time equivalents, 12 fewer than the estimated 1991 level.

## PREPARED STATEMENT

The inspector general's total budget figure is distributed among four basic activity centers: the Office of Audit; the Office of Investigation; the Office of Labor Racketeering; and an executive direction and management activity. With that summation, I would be available for your questions, sir.

[The statement follows:]

## STATEMENT BY JULIAN W. DE LA ROSA

Mr. Chairman and members of the subcommittee, I appreciate this opportunity to appear before you to discuss the fiscal year 1992 budget request for the Office of Inspector General (OIG), Department of Labor (DOL).

The 1992 Budget request of the Office of Inspector General is for $51,326,000. This represents a net increase of $2,825,000 above the 1991 level. This requested increase will cover selected mandatory increases and allow the OIG to finance 541 FTE's, 12 fewer than the estimated 1991 level.

OIG's total budget figure is distributed among our four basic activity centers: the Office of Audit, the Office of Investigations, the Office of Labor Racketeering, and an Executive Direction and Management activity.

Included in the request is a proposed transfer of $961,000 from audit contract funds to Executive Direction and Management to support implementation of the field portion of OIG's ADP Modernization Program in fiscal year 1992.

### OFFICE OF AUDIT

The request for the Office of Audit (OA) totals $24,770,000 and 247 FTE's.

A comparative transfer of $300,000 to Departmental Management is included for the continued preparation of DOL financial statements, which were previously prepared by the OIG.

In fiscal year 1992, OA's prime responsibility will be to implement the specific requirements assigned to the OIG by the Chief Financial Officers Act of 1990. Beyond that effort, OA will maintain the broadest possible audit coverage of Departmental program operations and management. Substantial fiscal year 1992 audit coverage will be dedicated to the areas of: Departmental Financial Management; Job Training Partnership Act; Pension and Welfare Benefits Administration; Unemployment Insurance; and Information Technology and Resources Management.

The amount requested for OA includes $6.4 million in audit contracting funds, which is the equivalent of 68 FTE's. Coupled with OA's 247 FTE's, OA anticipates performing 206 audits, reviews, and studies, and issuing 390 audit reports under the Single Audit Act.

### OFFICE OF INVESTIGATIONS

The request for the Office of Investigations (OI) totals $8,838,000 and 109 FTE's.

During fiscal year 1992, OI investigative priorities will be in the areas of the Job Training Partnership Act, the Federal Employees' Compensation Act, and DOL employee misconduct. In addition, OI will be resuming investigative activity in several areas which were discontinued by OI after the 1989 Office of Legal Counsel opinion, such as fraud related to the Black Lung and Unemployment Insurance Trust Funds. OI's caseload projections for 1992 are lower, which is consistent with plans to develop a caseload emphasizing investigations of greater complexity and potential rewards in terms of recoveries, improvements and impact.

### OFFICE OF LABOR RACKETEERING

The request for the Office of Labor Racketeering (OLR) totals $11,322,000 and 126 FTE's.

OLR's enforcement program is founded on the premise that organized criminal groups have penetrated certain labor organizations and used unions as vehicles to abuse affiliated employee benefit plans and create criminal monopolies in labor intensive industries. These industries include the building and construction, waterfront, garment, trucking, waste disposal and tourism trades.

A unique feature of this enforcement effort is its commitment to long-term investigative projects designed to reach beyond the most visible violations and perpetrators in order to remove insulated persons who represent the infrastructure of corruption. Such a concentrated focus also is intended to promote a continuous law enforcement presence in historically corrupt areas in an effort to create a credible deterrent.

OLR will continue, as in past fiscal years, to conduct criminal investigations in the following priority areas: employee benefit plans, labor-management relations, and internal union affairs. Within the benefit plan arena, the primary focus will be upon welfare plans, including the burgeoning problem of fraudulent self-funded group health plans and fraudulent multiple employer welfare arrangements (MEWA's)

## EXECUTIVE DIRECTION AND MANAGEMENT

The request for the Executive Direction and Management (EDM) activity totals $6,396,000 and 59 FTE's.

The EDM activity provides for overall management direction as well as policy development, planning and review, legal counsel, legislative and regulatory assessment, and resources management, as well as information and administrative support functions necessary to carry out the nationwide responsibilities of the OIG on a timely and cost-effective basis.

The OIG has developed plans for the replacement of its eight aged minicomputers with DOL-standard microcomputer technology. At this time, the OIG estimates that $961,000 will be required in fiscal year 1992 to implement this phase of the OIG's ADP Modernization Program.

Mr. Chairman, this concludes my prepared statement. I would be pleased to answer your questions.

---

## BIOGRAPHY OF JULIAN W. DE LA ROSA

Mr. De La Rosa became the Inspector General (IG) for the Department of Labor on August 6, 1990, after 30 years of service with the Federal Bureau of Investigations. As IG, he oversees the audits and investigations of all Departmental programs.

In 1989 Mr. De La Rosa retired from the FBI and accepted the position of Secretary to the Board of Police Commissioners of the St. Louis Police Department. In this position, he was the Executive Officer responsible to the Governor of Missouri and to the Board for the administration, personnel operation, and budgetary aspects of a major law enforcement agency with over 2,200 officers and employees.

In 1988 he was promoted to Special Agent-in-Charge (SAC) of the St. Louis FBI Field Office. As SAC, he was responsible for over 100 Special Agents conducting investigations in Eastern Missouri. In 1987 Mr. De La Rosa returned to FBI Headquarters as the Executive Officer in charge of background investigations of nominees for political appointments. In 1979 he was promoted to Assistant SAC of the San Antonio Field Office.

In 1972 Mr. De La Rosa was promoted to FBI headquarters. In this position he supervised Field Office investigations of criminal violations and participated in personnel and administrative policy implementation. He was also instrumental in the establishment of the FBI's Office of Equal Opportunity Affairs.

Mr. De La Rosa began his law enforcement career in 1959, with the FBI in the San Antonio, Texas office. In 1963 he was appointed as a Special Agent and served in many posts, conducting civil, criminal, labor racketeering, and foreign counterintelligence investigations.

A Texas native, he was graduated from St. Mary's University in San Antonio in 1963 with a B.A. degree in political science. Mr De La Rosa is the recipient of over 70 special commendations from the FBI in recognition of meritorious accomplishments. He is a member of the International Association of Chiefs of Police, and the Texas Police and Sheriff's Associations. He is married and has three children.

## BUILT-IN INCREASES

Senator **Harkin**. Thank you, Mr. De La Rosa, for being so succinct. Let me ask you this. You are asking for $2 million more than last year, but you are cutting 12—you have 12 fewer people full time.

Mr. **De La Rosa**. Yes, sir; that is the estimate as it stands now. In addition, the impact of the Federal Law Enforcement Pay Reform Act of 1990 will be about $1 million while the request provides only $450,000. The other $550,000 we have to take from other services. Since we are an investigative and auditing entity we must maintain a certain level of nonpersonnel activities, such as travel and other services, and that is reflected in our budgetary adjustments by a reduction of 12 FTE.

Senator **Harkin**. Staff just gave me this. The increases are built in here, I guess. It looks like most of it is for increased salaries, right? Increased pay?

Mr. **De La Rosa**. Increased pay and such things as locality pay, the administratively uncontrollable overtime, which is part of the compensation provided to our criminal investigators—of whom we have 196 at this time—and other related law enforcement costs.

Senator **Harkin**. We would like to take a look at some of this. I have some questions on some of these items. To provide for increased cost of audit contracts, $323,000. Why is that so much more?

Mr. **De La Rosa**. I am sorry, sir. I did not hear the specific reference you made.

Senator **Harkin**. Well, it was to provide for increased cost of audit contracts. I do not expect you to answer that right here. I am just looking at the list and I am saying it sticks out like a sore thumb here. I am wondering about some of these big increases here. I can understand the pay.

Mr. **De La Rosa**. Those are all simply inflationary increases. But we would certainly be willing to explain them and furnish our responses for the record.

Senator **Harkin**. I might ask you about some of those. Some of those look a little bit high there. But we might give you a few questions on them.

Mr. **De La Rosa**. Certainly.

## JOB TRAINING PARTNERSHIP ACT

Senator **Harkin**. I want to get back to the job training fraud and abuse. You probably heard me ask the secretary about that. I wanted to ask you about that. You have already suggested legislation? Do you believe that regulations are sufficient to deal with the problem, or do you still think we need legislation?

Mr. **De La Rosa**. We have not seen the final draft of the proposed regulations, and that process is going to take some time. But I believe regulations could be an improvement. But whether they would, in and of themselves, take care of the problem, as grave as we believe it to be—at this point I do not really think so. I think legislative action such as the bill that was proposed is going to be necessary.

Senator Harkin. How soon are you going to get these regulations? Do you have any idea?

Mr. De La Rosa. We are working with Assistant Secretary Bob Jones and his ETA people in that regard, and I really cannot speak to when the regulations are going to come out. We can determine that and advise you.

Senator Harkin. Well, if you have any suggested changes from the legislation that came up last year, would you let us know soon?

Mr. De La Rosa. Yes, sir.

Senator Harkin. If we are going to address that this year, we ought to get on it pretty soon. And at the staff level, would you please work on this?

Mr. De La Rosa. The JTPA issues, as you may be aware and are probably aware, are a high priority in both our audit and our investigative entities, and we consider them to be one of the things that we will continue to pursue in the forthcoming fiscal year as well.

Senator Harkin. Do you believe—can you state now that—this evidence of fraud and abuse, is it just really localized or is it widespread throughout the whole—is it spread around?

Mr. De La Rosa. I would like Mr. Peterson to comment more specifically—but, based on the reviews that I have conducted within the Office of Inspector General, we find it to be quite widespread. And in fact, I believe just about every program we look at we find a problem that could be corrected by both these regulations or by the legislation as we see it. Would you like Mr. Peterson's comments on this?

Senator Harkin. Yes, please.

Mr. Peterson. I certainly concur with the inspector general that the abuses are widespread. Just going back to your previous question, Mr. Chairman, we testified several times last year in the House in support of the House amendments, and we continue to support amendments that look very much like those which the House passed 1 year ago. I know that they could not get that done in conference at the end of the last session, but we continue to support amendments that look very much like what the House passed 1 year ago.

### PENSION AND WELFARE BENEFITS ADMINISTRATION

Senator Harkin. I have covered that. One question I wanted to cover with you. Does your office get involved in any audits and looking at some of the problems in the pension benefit guaranty administration?

Mr. De La Rosa. Yes, sir; we audit in the ERISA area.

Senator Harkin. You are looking at that, right?

Mr. De La Rosa. Regarding ERISA and DOL's Pension and Welfare Benefits Administration, yes, we do, on a regular basis. In fact, we are in constant discussion with them. We conduct investigations in the criminal ERISA area, and we conduct oversight audits of their activities in general. We have been working with them—I am sorry, I may have misunderstood—did you say, the Pension Benefit Guaranty Corporation, or the Pension Welfare Benefits Administration?

## PENSION BENEFIT GUARANTY CORPORATION

Senator HARKIN. The first one. Pension Benefit Guaranty Corporation.

Mr. DE LA ROSA. All right, we do not. The Pension Benefit Guaranty Corporation has its own inspector general.

Senator HARKIN. You do not really do much—you do not conduct any audits of them at all or anything like that?

Mr. DE LA ROSA. No, sir; we do not. We did, I believe, conduct some audits in past years at the request of GAO, but once their own inspector general came on board, then we were taken out of the loop on that. I am advised that was when the 1988 amendments to the Inspector General Act were passed.

Senator HARKIN. I am confused, because they come under our jurisdiction too.

Mr. DE LA ROSA. I understand.

Senator HARKIN. All right.

Mr. DE LA ROSA. I confused it, too, and I apologize for that—misleading you there briefly.

Senator HARKIN. What was the other outfit you were talking about?

Mr. DE LA ROSA. Pension and Welfare Benefits Administration, which is part of the Department of Labor. They handle the ERISA side of it. PBGC guarantees the retirement.

Senator HARKIN. And PWBA handles the ERISA end of it?

Mr. DE LA ROSA. That is correct, sir.

Senator HARKIN. I see, I see. And you do audit them?

Mr. DE LA ROSA. Yes; we do.

Senator HARKIN. Well, we may have some further contact with you on that, because we were all just talking to Senator Bumpers before he left. It just seems like a month does not pass that we do not have another story about someone else bailing out of their pension requirements, and it strikes me as being odd that they can just somehow walk away from these and leave it up to us to pay for it. We may want to do more on that later on.

I do not have anything else, unless any of you have anything else that you want to add. I appreciate your being here.

Mr. DE LA ROSA. We will certainly respond to your questions for the record, and thank you very much for inviting us.

## QUESTIONS SUBMITTED BY THE SUBCOMMITTEE

Senator HARKIN. Thank you very much, Mr. De La Rosa.

There will be some additional questions which will be submitted for your response in the record.

[The following questions were not asked at the hearing, but were submitted to the Department for response subsequent to the hearing:]

# QUESTIONS SUBMITTED BY THE SUBCOMMITTEE

## JOB TRAINING FRAUD AND ABUSE

Question: Mr. De La Rosa, as you know, the Department is proposing tighter regulations to curb abuses in programs of the Job Training Partnership Act, for which you have suggested legislation. Do you think regulations are sufficient to deal with this problem, or is legislation still needed?

Answer: The program accountability and integrity problems we have identified are such that regulations could correct most of the deficiencies. However, over the past 4 years, the Employment and Training Administration (ETA) has shown little interest in issuing and implementing regulations which would deal with the identified systemic problems. For this reason the OIG is now recommending legislation, and it is our understanding that an administration bill which amends JTPA and addresses these problems is being prepared. OIG will be prepared to offer its comments on this bill when it is introduced.

Question: What evidence is there that fraud and abuse in Job Training programs is not just a few isolated cases, but widespread and systematic?

Answer: Most of the referenced fraud and abuse issues can be traced directly to weak or nonexistent regulations and/or program instructions and that leads to the conclusion that the problems are systemic. Additionally, in our JTPA audit work over the past 4 years, in virtually every Service Delivery Area (SDA) we have visited, we have found problems with targeting, cost accountability, procurement and financial and programmatic reporting.

We are aware that ETA has conducted its own oversight reviews of SDA procurement and on-the-job training practices performed at several hundred SDAs over the past 9 months, and understand they have identified similar problems.

I would also like to point out that we have devoted increasing investigative resources to Job Training programs because of information developed in our audits and due to cases referred to us directly by ETA or allegations which we have received from sources. For example, in Fiscal Year 1988, 14% of our investigative time was devoted to JTPA. Those percentages grew to 16% in FY 1989 and 23% in FY 1990. Thus far in FY 1991, we are approaching the 40% level nationally.

## CUT IN OIG FUNDS

Question: Your budget request for fiscal 1992 shows a proposed reduction of 12 staff and in addition a reduction of over $900,000 in Audit Contract funds. Would you tell the Committee the circumstances that led to these reductions and, in general tell us if you, as new Inspector General believe this request will provide you with sufficient resources to do your job?

Answer: Each of our offices has been required to absorb some across-the-board reductions over the last several fiscal years, including the 1991 reduction pursuant to P.L. 101-517. While this has been accomplished, we have come to a point where the cumulative effect of these reductions could no longer take place without reducing our full-time equivalents. After determining the minimum necessary in non-personnel services to adequately support personnel in each operating unit, the following reductions were calculated for each office using a conservative cost per FTE in order to quantify the number of FTEs that we would be unable to finance in FY 1992.

| | | |
|---|---|---|
| Office of Audit | 6 FTEs and | $276,000 |
| Office of Investigations | 2 FTEs and | $104,000 |
| Office of Labor Racketeering | 2 FTEs and | $116,000 |
| Executive Direction and Management | 2 FTEs and | $ 80,000 |
| | 12 | $576,000 |

In 1983, the OIG procured a series of minicomputers, totaling now seven, supporting field and headquarters offices in word processing support and in computing. By the time we get to 1992, we will be running dangerously close to the edge of the useful life of those machines. We have designed a modernization program to move from that aging minicomputer-based environment to a microcomputer based environment, using local area networks and some stand-alone machines.

What is being requested in FY 1992 is for implementation of the field portion of that program. $961,000 will allow us to replace all of the aging field minicomputers on which we are paying more and more each year in maintenance costs. After examining this need, that we must meet from a basic operational standpoint, it is, in our view, cost effective to meet it utilizing the contract funds of the Office of Audit in order to bring this modernization on line as quickly as possible. This approach reflects the importance that we place on the need to accomplish this improvement.

I understand the austerity problems and other situations we are facing, both at the Department of Labor and nationally, and it will therefore be essential that we minimize our expenditures wherever possible. I believe however, we will be able to do the mandatory duties required of us with the resources provided in this budget.

## PENSION AND HEALTH OVERSIGHT

Question: You also indicated in that Semiannual Report that this Congress needs to act on legislation to tighten up the ERISA requirements (Employment Retirement Income Security Act). What other action do you consider necessary in this area and particularly, what needs to be done to deal with the fraudulent health insurance schemes?

Answer: We consider these areas to require regulatory and/or legislative action:

### Minimum Standards for Pension Audits

The OIG worked closely with the American Institute of Certified Public Accountants (AICPA) and the Pension and Welfare Benefits Administration (PWBA) in the development of the new audit guide for pensions. The guide contains expanded guidance on reviewing for prohibited transactions with parties in interest and clarification of the auditors' responsibilities for detecting and reporting these transactions. We are discussing with PWBA and AICPA the best approach to implement the use of the new audit guide.

### Direct Reporting of Significant Violations and Events

At present when an auditor finds major errors, irregularities or illegal acts, they should be contained in the audit report issued to pension plan management. Pension plans with more than 100 participants are required to file annual reports with the Department of Labor, but under the normal reporting process, information about significant errors, irregularities, illegal acts or other major events related to pension plan management, takes many months to reach the Department.

There is an urgent need to require direct reporting of significant violations or events directly to the Department of Labor. The Security and Exchange Commission (SEC) has had in place for a number of years a system of direct reporting by auditors of significant problems and the system has served the SEC well. We have recommended such a system to the Department for pension plan auditors and support legislation or regulation to make it happen.

### Independent Oversight of Pension Plan Audits

A number of pension plans have established audit committees to oversee the audit of plan management and operations. This permits a more objective approach to the audit function, strengthens the auditor's independence and helps avoid conflicts of interest and undue management influence over the audit process.

Because of the important benefits to plan participants and the success demonstrated by a number of plans using this mechanism, we believe this is a process the Department should give further consideration to at an appropriate time in the future.

Fraudulent Health Insurance Schemes

The question of what needs to be done with regard to fraudulent health insurance schemes is extremely complex and controversial as it is only one aspect of the broader problem of health care costs in general. Nevertheless, until solutions to the broader health care problems are devised we will continue to be faced with fraudulent operators taking advantage of the need for affordable health insurance.

Several things can be done which, together, should help the situation. First, there should be legislation requiring compulsory registration with the Department of Labor of all entities doing business as multiple employer welfare arrangements or multiple employer trusts. Second, the language of the amendments to ERISA which give states the right to regulate MEWAs (the "Erlenborn Amendments") needs clarification. At present some states find themselves in lengthy litigation just to assert their regulatory authority. Third, the DOL should enhance efforts to assist the states in developing and implementing legislation targeted at regulating rogue MEWAs. Finally, federal enforcement resources need to be enhanced to better carry on criminal investigations where warranted. This is necessary as many of the fraudulent schemes operate interstate, avoiding the jurisdiction of local and state investigative agencies.

## EFFECTIVENESS OF ENFORCEMENT ACTIV~~I~~ITIES

Question: You have been in place as the Department's Inspector General for only a short time, Mr. De La Rosa, but perhaps that has been long enough for you to have come to some preliminary conclusions about the effectiveness of the Department's enforcement of the laws it is charged to carry out to protect the welfare of America's workers on the job and in their retirement. What is your impression of those enforcement efforts?

Answer: Beginning in fiscal year 1990, the OIG began a long-range, comprehensive analysis and evaluation of the Department's enforcement activities. During the first year we focused our efforts on the extent to which departmental agencies implemented criminal enforcement strategies, resulting in a June 1990 report.

Our report concluded that the Department lacks a comprehensive, unified and well-articulated approach to enforcement and has no framework for evaluating criminal enforcement achievements. There is no standard mechanism to capture and report data about criminal investigations. Therefore, the Department may never fully know the extent to which it is effective, and conversely, is unable to identify those areas in which it is ineffective and where corrective actions should be taken. The lack of departmental uniformity results in each agency being left to develop its own enforcement strategy, thereby reducing the Department's overall effectiveness.

Our report also concluded that the Department is not fully effective because the program agencies have had few, if any, fully trained and certified criminal investigators on their staffs. Some such as PWBA and OSHA have initiated efforts to establish such resources. The agencies' position is that they do have access, through the FBI, to criminal investigators. I do not concur with this approach, and believe that it is more effective to have investigators within the program agencies as well as to use the OIG's resources to conduct criminal investigations within the Department. These steps will ensure better coordination and cooperation both within the DOL and with the DOL and its agencies.

The limitations imposed upon OIG criminal investigation activity by the Office of Legal Counsel (OLC), contribute to an overall reduction in the Department's criminal enforcement effectiveness, as it is the OLC's view that the Secretary cannot delegate her investigative responsibilities to the OIG, even for a specific case, should she choose to do so.

During fiscal year 1991, the OIG has expanded the focus of its review and is now concentrating on the effectiveness of civil enforcement activities as well as evaluating the implementation of the recommendations contained in the Report of the Secretary's Task Force on Enforcement. We expect to have preliminary evaluations of these areas beginning with our September 1991 Semiannual Report.

I also remain concerned that the program agencies do not fully appreciate the deterrence factor which results from criminal investigations and prosecution, as opposed to civil enforcement activities.

Question: How does the issue of law enforcement authority for your investigators fit into the equation?

Answer: My law enforcement experience includes thirty years with the Federal Bureau of Investigation (FBI) including field and headquarters management experience at the senior executive service level. In my last FBI assignment, I served as the Special Agent-in-Charge of the St. Louis Field Office. I have conducted and/or managed virtually every type of investigation conducted by federal law enforcement agents. I am confident, based on my experience in my assessment of the needs of agents assigned to the Office of Inspector General (OIG), Department of Labor.

The OIG has two investigative components. The Office of Labor Racketeering (OLR) has 108 special agents throughout the country and the Office of Investigations (OI) has 88 special agents.

The mission of the Office of Labor Racketeering (OLR) is to identify and reduce organized crime, labor racketeering and corruption in the labor-management field. OLR investigators focus on criminal abuse of employee benefit plans, and racketeering in labor-management relations and internal union affairs. Investigative activities include protection of witnesses, surveillance of suspects including organized crime figures, undercover operations, execution of search warrants, service of grand jury subpoenas to hostile witnesses, and dangerous interviews. These critical investigative activities cannot always be safely or effectively carried out without law enforcement authority. The perpetrators of the types of crimes investigated by OLR are often professional criminals.

The Department of Justice (DOJ) has granted blanket deputation to OLR's investigators, renewable on a yearly basis for many years. This delegated law enforcement authority has dramatically raised the credibility of OLR and increased the effectiveness and efficiency of its investigative operations. It should be apparent that there is a demonstrated need for this authority on a continuing and permanent basis. Given this conclusion, it would be more efficient and less cumbersome for all parties involved to provide this statutory authority.

OI agents, however, do not have blanket deputation authority. Instead, we must specifically request and justify deputation for these agents on a case-by-case basis. This is a time-consuming administrative burden for our field and headquarters managers.

I am including a copy of my letter of February 8, 1991, to the Deputy Attorney General in which I requested blanket deputation for our OI agents. (This request was denied and communicated in the Deputy Attorney General's letter to me dated February 22, 1991). I am also including a four page document which details the impact the lack of full law enforcement authority has on this agency.

There is no question that the effectiveness of the OIG's criminal investigative program is being adversely affected by the lack of full law enforcement authority.

# LETTER FROM JULIAN W. DE LA ROSA, INSPECTOR GENERAL

The Honorable William P. Barr
Deputy Attorney General
United States Department of Justice
10th Street and Constitution Avenue, N.W.
Washington, D.C. 20530

FEB 8 1991

Dear Mr. Barr:

I request that all special agents of the Office of Investigations (OI), an investigative component of the Office of Inspector General, United States Department of Labor (DOL OIG), be deputized as Special Deputy United States Marshals on a blanket basis to provide these agents with the authority to carry firearms and make arrests. I am basing my request for blanket deputation for these Federal agents on the need to maximize the effectiveness and efficiency of our operations, the need for flexibility and efficiency in providing for the Secretary's security, and the need to minimize the dangers to agents who carry out their duties.

Prior to accepting my current appointment, I served 30 years as a FBI Special Agent in many management positions, including inspections and as the Special Agent-in-Charge of the St. Louis field office. Since my confirmation last August, I have drawn upon this extensive Federal investigative background and have reviewed OI's investigative operations. Based on my review, I am convinced more than ever that a blanket deputation of OI criminal investigators is necessary for OI to efficiently, effectively and safely carry out its mission. I am also confident that such a development would be welcomed by the many United States Attorneys' Offices throughout the country with whom OI works.

I believe that the overall OI investigative program meets the standard for blanket deputation as established by the Department of Justice (DOJ). Further, the Deputy Assistant Attorney General of the Criminal Division, John Keeney, testified on July 18, 1990, that there must be a significant likelihood that investigative personnel will be required to perform the kinds of investigative procedures which justify special deputation on a case-by-case basis before (DOJ) will approve a blanket deputation. Over a period of several years we have demonstrated that need and believe, therefore, that that standard has been met as well.

By way of background, OI has 88 special agents authorized at seven regional and field offices in the United States and Puerto Rico. These agents have conducted investigations in every judicial district in the United States, as well as Puerto Rico and Guam, that routinely include racketeering, kickbacks, embezzlement, bribery, obstruction of justice and other types of fraud against the Department of Labor.

OI agents are fully trained and accredited GS-1811 criminal investigators, the position classification that designates all statutory Federal law enforcement positions. Much of our management personnel and many of our agents have previously served as agents with other Federal law enforcement agencies, including the FBI and the Postal Inspection Service. Still others have served as state and local police officers. It is strict OIG policy that all of our agents are graduates of Federal law enforcement schools such as the FBI Academy and the Federal Law Enforcement Training Center in Glynco, Georgia. They have received extensive training in the full range of law enforcement subjects including firearms, search and seizure, arrest procedures, and federal criminal law. Our agents also receive periodic refresher training to remain current with investigative techniques and issues, and many have had additional specialized training. I am personally convinced of their high standard of professionalism and training. In short, they are as capable as any law enforcement personnel I have had the opportunity to work with.

The primary reason that I am requesting blanket deputation is to enhance the efficiency and effectiveness of my investigative staff. During the nearly 13 years we have been in operation, we have tried several other alternatives to blanket deputation in order to carry out our responsibilities. Unfortunately, each has had serious limitations. For example, in just the past year it was necessary for OI investigators to obtain assistance some 70 times from a Federal or state law enforcement agency with the authority to make an arrest. Unfortunately, this has been time consuming and often resulted in unnecessary delays in making arrests. Furthermore, the lack of arrest authority also continues to be an impediment in the execution of search warrants. Last year OI agents participated in some 30 searches, usually necessitating the assistance of another Federal or state law enforcement organization with firearm and arrest authority during the execution of the search warrant.

As you can appreciate, it is time consuming and inefficient to request the assistance of another department or agency in making an arrest or conducting a search. Because of the attendant delay, subjects can flee or evidence can be destroyed. On a number of occasions, Assistant United States Attorneys have expressed their frustration and concern with having to use agents from an agency not involved in the investigation in order to execute a search warrant, since knowledge of the details of a case is frequently essential to the proper execution of that warrant. Additionally, other Federal and state law enforcement agencies are understandably hesitant to provide personnel for lengthy searches or arrests, when the only reason for their presence is to provide armed agents having arrest authority.

They simply have their own case workload and priorities to which they need to respond. In addition to using their resources in matters in which they have no direct interest, some agencies have even expressed concern regarding their own liability, should there be an incident that leads to litigation. Further, they have expressed concerned about working in a potentially dangerous environment with agents who are unarmed and who must be protected, but who are unable to assist them, should the need arise. Finally, since employees of those agencies are not always available where needed, the narrow window of opportunity in which to conduct a search or make an arrest may be lost.

In addition to those efforts to utilize the law enforcement personnel from other agencies, we have also attempted to have some of our agents appointed as Special Deputy United States Marshals on a case-by-case basis. Unfortunately, the current deputation approval process on a case-by-case basis has also proven to be too cumbersome in the past and--based on our current inventory of cases--I anticipate this problem only becoming much more acute.

Even with the proposed expedited approval process for deputation by DOJ's Criminal Division, case-by-case deputation will not be sufficiently responsive or effective for our needs. The deputation process will still require at least two to three weeks from the time we submit our request until the time approval is communicated to us. Furthermore, case-specific deputations present significant logistical difficulties for most OI agents, whose investigations often involve travelling hundreds of miles, normally concurrently working on more than one case during a trip. If deputized on a specific case, the agent will carry a firearm. However, problems arise when the agent stops work on the deputized case and begins to work on other cases. At this point OIG policy, as well as DOJ policy, requires the agent to cease carrying his weapon. Unfortunately, the agent's office may be hundreds of miles away while he works for an extended period of time on several cases within a geographic area. Consequently, the agent is forced to lock the weapon in an automobile trunk while working on any of those other cases in which he or she has not been deputized. As I am sure you recognize, it is not sound policy to leave a weapon in an unattended automobile or other similar location, such as a motel room.

However, to continue to carry the weapon once the deputized case work is complete may also place the agent in the position of violating state law, since there is no authority to carry the weapon. Agents deputized for two specific cases (or for one specific case and the security detail) may find themselves in even greater quandaries as to when they should be armed. There are an endless number of hypotheticals pertaining to case-specific deputation, leading to even more troubling results. Surely, the least desirable result is having an armed Federal agent who is unsure whether he or she is properly armed or whether he or she may properly take action. In view of OI's investigative needs, coupled with the Secretary's security considerations (discussed below), I submit that a blanket deputation is the most efficient and effective way to address these concerns.

In addition to the adverse impact on our effectiveness and efficiency that the lack of blanket deputation has caused, there is another important consideration: the Secretary of Labor has indicated her desire for OI to provide protective security. We have done this in the past. Clearly, the manpower needs for a security detail can be significant, controlled by the Secretary's extensive schedule of activities and travel, as well as the nature and extent of any threats. Several weeks ago, prior to the Secretary advising me of her security request or the initiation of events in the Persian Gulf (with its potential impact on this country) I had a conversation with Associate Deputy Attorney General Margaret C. Love. Based on the then existing estimates of need, I indicated that I could limit the number of deputized OI agents assigned to the security detail to ten. However, initiation of actual hostilities with its current and projected terrorist threat, as well as her stated desires and my own further reflection, I no longer believe it possible or prudent to so limit her security detail. As the DOL executive responsible for the Secretary's security, I need to have the flexibility to use the resources necessary to protect her. Allowances must be made for scheduled leave and adequate rest for the agents. Further, it is simply more efficient and effective to be able to utilize special agents assets where they are, rather than have to transport an adequate, full-time security detail all over the country in order to maintain the necessary level of protection. I must have the flexibility to be able to use agents assigned to all of the cities we cover. These uncertain times do not allow for two to three weeks response time for a deputation request in order to provide additional security as may be needed. I am requesting, therefore, that all qualified OI agents be deputized and available for security detail assignment.

In addition to vastly enhancing our law enforcement efficiency and effectiveness and sufficiently providing for the Secretary's protection, I am keenly aware, as I was in the FBI, of the need for assuring the safety of our agents. I have personally visited many of the OI offices and talked with the men and women who actually conduct the criminal investigations. On a daily basis, OI agents carry out traditional law enforcement duties that expose them to threats and violence.

OI agents employ investigative techniques including, but not limited to, surveillance, hostile interviews, consensual monitoring, and undercover operations. OI agents serve both grand jury and Inspector General subpoenas, often to targets of investigations. OI investigators who perform such duties are frequently at great risk and should not be exposed to physical danger without the authority to arrest individuals who may attempt to endanger them or other innocent persons and/or obstruct OI's investigations. Also, subjects and witnesses of OI investigations include individuals previously convicted of violent crimes including murder, armed robbery, assault with a dangerous weapon, rape and various drug offenses. Clearly, routine law enforcement activities often involve taking individuals into custody or taking control of their property. Under the very best circumstances, there is a significant element of risk involved, since there is a degree of panic, resistance or unpredictability in each situation. I have enclosed a number of examples which are typical of the dangers faced by OI special agents while carrying out their law enforcement duties.

Under Department of Justice regulations, all OI agents are identified as law enforcement officers authorized to request the issuance of a search warrant. See 28 CFR Part 60. We believe that such authority extends to the execution of search warrants, as set forth in Rule 41 of the Federal Rules of Criminal Procedure. OI special agents are additionally designated for coverage protection under 18 U.S.C. § 1114. See 28 CFR Part 64. By incorporation, OI agents are also protected in the performance of their official duties from violations of 18 U.S.C. §§ 111, 115, 1117 and 1201(a)(5). As a practical matter, however, I have grave concerns about permitting OI agents to execute most search warrants without the authority to carry firearms and to make arrests. Proper execution of a search warrant, at a minimum, requires agents to secure the premises and remove any individual who might obstruct the search. Therefore, in order to execute most search warrants our agents must request the assistance of a Federal agent having full law enforcement authority. Inasmuch as the Department of Justice grants search warrant authority, I believe the Department also has a responsibility to provide special agents with the necessary tools to execute these warrants in a safe and effective fashion.

I am aware, of course, that some have previously raised the issue of a potential "proliferation" of law enforcement personnel that would result from any blanket deputation. I would like to reiterate that I am requesting blanket authority for a relatively small number of agents, many of whom are already deputized on a case-by-case basis. These few additional agents with blanket deputation would represent an insignificant increase to the tens of thousands of Federal law enforcement personnel already having this authority. I can assure you, however, that the enhanced value of this authority to our operations in this Department would be significant. It would play an important role in enhancing our abilities and flexibility and it is an authority with which we are certainly experienced and well-qualified to utilize.

As I am sure you are aware, my other investigative component, the Office of Labor Racketeering (OLR), has had a blanket deputation for nearly four years. The record indicates that OLR agents have conducted themselves in the highest professional manner and without incident. Moreover, OLR's effectiveness has been significantly enhanced as a result of the blanket deputation. I can personally assure you that OI agents have demonstrated the same high degree of competency and professionalism. Indeed, OI agents are sometimes reassigned to OLR and vice versa. OLR and OI agents occasionally work joint cases when there is concurrent jurisdiction. Any DOJ concerns about the blanket deputation of OI agents should be alleviated by DOJ's positive experience with OLR. Historically, DOJ has approved some form of limited deputation, at one time or another, for more than seventy-five per cent of OI special agent positions. Thus, there can be no question that the OI cadre of agents meet DOJ standards for deputation. Of course, I am amenable to having OI submit to DOJ the same extensive quarterly deputation reports which OLR presently files.

Unrelated to my request for blanket deputation, but in view of the international situation, I am also requesting at this time that all deputized DOL OIG agents of the Offices of Investigations and Labor Racketeering, be granted temporary authority to make arrests for any Federal felonies committed in their presence. This policy would make available additional trained Federal agents to immediately respond to any attack on Federal Government facilities or employees. I suggest that this authority to make arrests for any Federal felonies be limited to the duration of the Gulf crisis and be subject to reevaluation after the hostilities have ended.

Finally, in an era of budget and fiscal restrictions, it does not make good sense from the American taxpayer's point of view, from the perspective of efficient and effective government, or from the ideal of sound government policy, not to maximize our existing resources. Through blanket deputation of OI special agents, I am proposing to get more out of our fully-trained, professional law enforcement personnel, without increasing the costs to the taxpayer. To do otherwise or to do less is simply inappropriate and not good for either the American taxpayer or the public.

I would be pleased to meet with you to discuss this further and to provide any additional information that you may need. Your early and favorable consideration will be appreciated.

Sincerely,

Julian W. De La Rosa
Inspector General

Enclosure

The following are a few examples illustrative of the various kinds of dangers and problems confronted by Office of Investigations (OI) special agents during the course of their investigations: dealing with witnesses with criminal backgrounds and a history of violence; working in unsafe urban or remote areas; experiencing the removal of evidence due to the inability to execute search warrants; facing hostile and dangerous arrest situations; failing to obtain help from, or be able to offer assistance to, other law enforcement agencies; tracking fugitives; and investigating former law enforcement officers who are defrauding the government.

OI agents, with the assistance of Postal Inspectors, participated in executing arrest and search warrants at the place of business of a former Bureau of Prisons Corrections Officer, who was fraudulently receiving federal workers' compensation benefits. Prior to the execution of the warrants, the agents determined that the subject possessed a firearm permit and owned a weapon. During execution of the warrants, the subject pulled a switchblade, dropping it only after the Postal Inspectors drew their own weapons. OI agents found themselves in a life-threatening situation, unable to defend themselves or to provide support for the other law enforcement officers also threatened.

OI has conducted investigations that have led to the convictions of former law enforcement officers from the Bureau of Alcohol, Tobacco and Firearms, Drug Enforcement Administration, Federal Bureau of Investigation, and U.S. Customs Service. Such individuals are familiar and proficient in the use of firearms, attuned to tactics used by criminal investigators, and imminently aware of the potential of imprisonment. Presumably they also are aware that OI agents do not have statutory authority to carry firearms.

An OI investigation of fraud against the Massachusetts Division of Employment Security disclosed that 162 false claims had been filed using seven fictitious employers. Of the 24 individuals ultimately indicted in federal court, 23 had prior criminal records, many for violent crimes. One defendant was even arrested for armed robbery while he was awaiting trial on the above charges. Although a number of OI agents participated in the investigation, only one OI agent was deputized during the entire investigation.

OI participated in a joint investigation of a $1.25 million unemployment insurance fraud scheme which initially identified 50 subjects for investigation. Criminal record checks of the subjects targeted for prosecution indicated that most of the individuals had criminal records ranging from theft offenses and narcotics violations, to aggravated assaults, manslaughter and murder. The subjects resided in extremely dangerous areas of Cleveland, and so all investigative work (surveillances, interviews, service of subpoenas, etc.) was performed in teams that included an agent with full law enforcement powers. OI agents and Postal Inspectors teamed together to investigate potentially dangerous individuals as well as individuals attempting to avoid service of subpoenas. Unfortunately, the investigation was often delayed because of the unavailability of the Postal Inspectors to assist OI agents.

In an attempt to obtain specific information relating to a complaint letter to the Mine Safety and Health Administration (MSHA), an OI agent and a MSHA civil investigator traveled to the complainant's home in Manchester, Kentucky in separate cars. The lone access to his apartment building was a long and extremely narrow alley which exited into a small parking area with no space to turn either vehicle around. When the OI and MSHA investigators arrived to interview the complainant, he was seated outside his doorway with an unobstructed view of the alleyway. As the investigators approached him, they noticed the complainant was armed with an automatic pistol. With no safe way to retreat from the premises, the agents remained and conducted the interview with the complainant, who appeared to be either mentally unstable or under the influence of drugs or alcohol. Because the OI agent was not armed, he was unable to safely extract the MSHA employee or himself from what was potentially a dangerous situation.

An OI agent and three accompanying Secret Service agents, investigating Job Corps related thefts, were on a tenement staircase in a high-crime neighborhood of New York City, when the lights went out and a commotion began ahead of them. The Secret Service agents drew their weapons, while the OI agent had to resort to using his briefcase as a "shield". Only ten days after being questioned by OI agents, one of the subjects of the investigation was killed by a spray of bullets from an Uzi weapon while she was seated in a car parked in front of her home.

Police surmised that her murder was related to the on-going Job Corps investigation.

An OI investigation resulted in an indictment for a false billing scheme involving medical equipment supplied to Black Lung claimants. The subject is currently a fugitive, and is being sought for trial on those charges and additional charges of kidnapping. He had a prior arrest record for firearms violations, resisting arrest and armed robbery, and is a known drug and alcohol abuser who is believed to be armed at all times. When asked to assist in the search for this fugitive, OI agents were deputized in January 1991. However, OI agents were, unarmed during the actual investigation they had conducted that lead to the May 1989 felony indictment.

During an investigation, OI agents discovered that business records belonging to the subject were being maintained in a storage facility. With this information, a search warrant was obtained. On account of the remoteness of the area, no other law enforcement agency was available to expeditiously execute the warrant. By the time the warrant could be executed, the subject had returned to the storage facility and had removed some of his items.

Arrest warrants in a bribery case were issued by a federal magistrate. OI agents sought to serve the warrants as quickly as possible, to secure the cooperation of those arrested and to develop evidence of other bribe offers. Agents from an agency with full law enforcement powers waited with an OI agent to arrest the bribery suspect. However, because those agents with arrest authority had to leave the stakeout, the arrest, had to be postponed until a later date. If OI agents had been authorized arrest powers, the suspect could have been arrested as scheduled and his cooperation could have been obtained at a much earlier stage in the investigation.

OI conducted a surveillance of a business establishment in Hoboken, New Jersey. At one point during the surveillance, two of the subject's employees pulled their van alongside the surveillance van, blocking it. The two employees approached the surveillance van and began banging their fists on the exterior, looking through the window, grabbing the handles and yelling obscenities. Fortunately, they were unsuccessful in gaining entry into the van. The OI agent immediately discontinued the surveillance since there was no way to protect himself from further attacks and threats.

The subject of an OI investigation had been convicted of fraud involving the unemployment insurance program (UI) and was sentenced to five years in prison. He escaped from a federal prison camp and began another scheme to defraud the UI program. He was finally arrested in Victorville, California, after an automobile chase by OI agents and local sheriff's deputies. A subsequent search of the subject's vehicle produced a handgun. The OI agents, who had spotted the subject and had contacted the local authorities, had been unarmed.

The subject of an OI investigation, who had a drug/alcohol addiction for which he had received treatment, was confronted by an OI agent regarding stolen workers' compensation checks. After several attempts, the lone OI agent located the subject at his place of business and asked to interview him. As the agent entered the subject's place of business, the subject stepped behind his desk, drew a gun from his briefcase, and placed it in a desk drawer. The agent completed the interview, withdrawing in a manner so as to not provoke the subject.

# LAW ENFORCEMENT AUTHORITY FOR OFFICE OF INSPECTOR GENERAL—U.S. DEPARTMENT OF LABOR

March 12, 1991

The Office of Investigations (OI), Office of the Inspector General (OIG), Department of Labor (DOL) employs approximately 90 special agents who are assigned to seven regional offices and 11 smaller offices known as field offices. OI special agents conduct a full range of felony investigations, including investigations of allegations of conspiracy, fraud, embezzlement, racketeering, bribery, extortion, and corruption. Further, the witnesses and subjects of these investigations include individuals who have been convicted or are suspected of committing violent crimes such as murder, armed robbery, assault with a dangerous weapon, rape and drug related offenses. Although OI special agents are classified as General Schedule 1811s, the same position classification that designates all statutory law enforcement positions (e.g., agents of the Federal Bureau of Investigation (FBI), Drug Enforcement Administration (DEA), U.S. Secret Service (USSS), and Postal Inspection Service (PIS), OI special agents lack full law enforcement authority. Specifically, OI special agents are not authorized to carry weapons or make arrests. As set forth below, this subjects OI agents to unreasonable risks and adversely affects the efficiency of OI operations.

The OI is composed of a relatively small number of agents, including increasing numbers of women and other minorities whose ages range from the early 20s through the mid 50s, and whose criminal investigative experience vary from less than a year to over 20 years of Federal service. Many have previous law enforcement experience including service with federal agencies such as the FBI and PIS or service with state and local law enforcement agencies.

Not only do OI agents have the same position classification as other federal agents, but they either receive the same law enforcement training provided the traditional law enforcement agencies at the Federal Law Enforcement Training Center (FLETC); or, have previously received particularized criminal investigator training with other Federal law enforcement agencies. They have received extensive training in the full range of law enforcement subjects including firearms, the Federal Rules of Criminal Procedure, and investigative techniques. On an agent-by-agent basis, additional modules of specialized law enforcement training are also provided OI special agents.

and investigative techniques. On an agent-by-agent basis, additional modules of specialized law enforcement training are also provided OI special agents.

The locations of OI investigations are no different than those where other Federal law enforcement agencies must visit and conduct their work. They are frequently dangerous urban, high-crime rate areas, known for activities such as illicit drug trafficking and related killings, assaults with dangerous weapons, prostitution and fencing of ill-gotten property. OI investigations also extend to the sparsely populated rural areas of the nation where an agent finds himself or herself not only alone and unarmed, but potentially confronted by hostile subjects and their associates and unable to rely upon the immediate response from a local law enforcement agency. Furthermore, in some states it is not illegal for residents to carry firearms.

Like other federal agents, OI special agents utilize the full range of investigative techniques, such as: undercover operations; approved electronic recording and monitoring; covert-overt surveillances; records analyses; and, interviews, which are sometimes confrontational, hostile and dangerous. Frequently, these techniques and others result in special agents requesting search warrants and the execution of OIG or grand jury subpoenas in the same dangerous environments.

Inefficiency abounds as a result of the way by which OI must rely upon others to assist it in carrying out its law enforcement mission. For example: On request, the Department of Justice (DOJ) will consider granting special agents limited law enforcement authority by deputizing them as Special Deputy U.S. Marshals. The requests are granted on a case-by-case basis, for a specific investigation, based upon a review of the situation and an agreement by the local U.S. Attorney, the Assistant Attorney General of the Criminal Division, the U.S. Marshals Service, and the Associate Attorney General. The deputations are limited to actions associated with a specific criminal investigation or personnel security assignments (e.g., the Secretary of Labor's security detail or witness protection). The deputations terminate on either June 30, or when the investigation/assignment is concluded, whichever occurs first.

This limited type of law enforcement authority is inadequate and the administrative requirements are time consuming. Case-by-case deputations are at the discretion of DOJ officials, are frequently conditional, and even when approved, the process often requires weeks to accomplish. The delays and possible rejections adversely impact the criminal investigations for which the deputations are needed. Evidence has been lost, investigations have been prematurely terminated, and OI has withdrawn from ongoing joint criminal investigations because its agents did not possess statutory law enforcement authority. Federal, state and local prosecutors and investigators from other law enforcement agencies have expressed dismay that OI agents lack this authority.

Moreover, due to potential danger, OI agents require the accompaniment of other law enforcement officers for the most routine investigative processes, e.g., subpoena service. This not only commits two officers and two agencies to carry out an otherwise "one-man"/one agency function, but requires unnecessary coordination and frequently compromises the timeliness of service. This same problem exists, but to a greater extent, when OI agents request a search and seizure warrant or an arrest warrant and must coordinate and rely upon the availability of other law enforcement officers to execute the warrant. These warrants, of course, cannot be executed without the presence of armed agents to facilitate safe compliance with the warrant. Because of delays caused by executing these warrants on the schedule of another agency, subjects may flee or evidence may be destroyed. Further, when unarmed OI agents participate in these arrests and searches, as they usually must, the risks increase for all participants. Not only are the unarmed agents at risk, but so are the armed agents who must direct their attention to their unarmed companions.

In addition to OI's law enforcement responsibilities, OI is responsible for the security of the Secretary of Labor. Heretofore, that responsibility has been carried out by a maximum of ten agents (limit set by DOJ) scattered throughout the country and deputized for this purpose. However, there are two problems with this procedure. First, it is costly to move these agents throughout the country as they are needed. Second, it restricts the resources available to the IG who is responsible for the Secretary's security. This is especially troublesome given the turbulent world situation.

There is another factor that is troublesome regarding deputation on a case-by-case basis. Agents are only authorized to carry their weapons when they are working on the case for which they are deputized. Inasmuch as agents generally work on several cases on any particular day, they are faced with a dilemma. Do they leave the weapon in a locked but unattended vehicle or must they drive, perhaps many miles, to the office to secure the weapon? The problem is even more acute when agents travel, as they often do, and work for a week or more in another state.

The lack of full law enforcement authority has adversely affected the retention of agents. Although OI attracts, recruits and trains many exceptional law enforcement, career-minded men and women, a percentage of our agents transfer to the traditional law enforcement agencies due to OI's lack of full law enforcement authority. Their safety and well being are often cited as uppermost in their decisions to transfer. Also of concern to our agents is the OI's dependency upon others to carry out fundamental criminal investigative functions. Clearly, the lack of full law enforcement authority has adversely affected OI's ability to retain some investigative resources in which OI has made long-term training and expertise development investments.

There have been several attempts in recent years to overcome this disparity in full law enforcement authority for the OIG community. In 1987, U.S. Senators DeConcini,

Domenici, D'Amato and Moynihan introduced S.1975. In 1990, U.S. Senator Boschwitz introduced S.2080; while, in the U.S. House of Representatives, Mr. Staggers introduced H.R.4149. All of these bills addressed the OIG community's need for full law enforcement authority, proffering essentially the same language which is indigenous to the law enforcement authority which cloaks the traditional Federal law enforcement agencies. DOJ has opposed each attempt, for reasons that appear to be based on a desire to protect the investigative jurisdiction of DOJ investigative agencies.

The enactment of statutory law enforcement authority for the OI would entail minimal additional costs, which would probably be immediately off-set by the return on the more efficient means by which OI could operate without having to rely on the assistance of other agencies.

Those who do not support statutory law enforcement authority for OI have failed to make the case that it would somehow adversely affect either the Federal Government at-large or specific federal law enforcement agencies. In the meantime, OI agents are conducting criminal investigations in the same dangerous environment and are being confronted by the same violent element as other law enforcement officers, without any of the benefits and protection of statutory law enforcement authority.

It is for these reasons, that the Department of Labor OIG should be accorded statutory law enforcement authority.

## SUBCOMMITTEE RECESS

Senator HARKIN. The subcommittee will stand in recess until 2 p.m., Tuesday, March 5, when we will meet to hear Secretary Sullivan, the Secretary of Health and Human Services. Thank you all.

[Whereupon, at 11:42 a.m., Tuesday, March 5, the subcommittee was recessed, to reconvene at 2 p.m., the same day.]

# DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION AND RELATED AGENCIES APPROPRIATIONS FOR FISCAL YEAR 1992

---

TUESDAY, MARCH 19, 1991

U.S. SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS,
*Washington, DC.*

The subcommittee met at 9:40 a.m., in room SD-192, Dirksen Senate Office Building, Hon. Tom Harkin (chairman) presiding.

Present: Senators Harkin, Specter, and Gorton.

## DEPARTMENT OF EDUCATION

### SPECIAL INSTITUTIONS

### HOWARD UNIVERSITY

### STATEMENT OF FRANKLYN G. JENIFER, PRESIDENT

#### OPENING REMARKS OF SENATOR HARKIN

Senator HARKIN. The subcommittee on Labor, Health and Human Services, and Education will come to order.

Again, I apologize, Senator Gorton, to all of you for being a little late this morning.

Today, we will hear from Howard University, Gallaudet University, the National Technical Institute for the Deaf, and the American Printing House for the Blind, the four special institutions funded through the Department of Education.

The fiscal year 1992 request for Howard University is $190.9 million, a decrease of $4.2 million below the 1991 level. While an increase of $1.5 million is requested for the endowment grant, no funding is requested for construction.

The elimination of the construction program in fiscal year 1992, which was funded at $5.8 million in fiscal year 1991, accounts for the decrease in the overall funding for Howard University.

Howard offers undergraduate, graduate, and professional degrees through the 18 schools and colleges which comprise the university. The university also administers the Howard University Hospital. Today, we will hear for the first time from Howard's new president, Dr. Franklyn Jenifer.

Now, a total of $70.8 million has been requested for Gallaudet University. Again, Gallaudet provides elementary, secondary, college prep, undergraduate, and continuing education for deaf students. The amount requested is $1.4 million less than the amount appropriated for fiscal year 1991. This morning, we will be hearing from Dr. King Jordan, the president of Gallaudet.

The National Technical Institute for the Deaf [NTID] is a residential facility providing postsecondary, technical training in education for deaf individuals. A total of $37.2 million has been requested for NTID.

This is $14,000 more than the amount appropriated for fiscal year 1991. Again, I welcome back today Mr. William Castle, the director of NTID.

The American Printing House for the Blind is the oldest private nonprofit organization of its kind in the United States. It is the world's largest publishing house specializing in printing braille and then manufacturing materials for educating visually disabled students. The request is $6.1 million. This is level funding with fiscal year 1991. Mr. Tuck Tinsley, the president of the American Printing House for the Blind, will be testifying today.

Requests from all four institutions that we'll hear from today are very restrained. Requests from Howard and Gallaudet are actually below 1991 levels. The Printing House will be level funded. Only NTID, as I pointed out, has an increase of 0.03 percent over last year.

The fact is, that after you consider the facts of inflation, all four are below 1991 levels.

This committee will examine these requests very carefully because we do not want to be so frugal as to damage the operations of these fine institutions. Frugal yes, but not reckless.

Let me welcome you all here today. Your full statements will be made a part of the record. I will just start over here with Dr. Jenifer and work across the table. If you could summarize your statements and highlight for us what you think are the two, three, or four points that you want us to know the most here in this subcommittee, I would appreciate it.

So, again, we will begin with Dr. Jenifer who will be inaugurated as Howard University's 14th president on April 5, in just a few days. I appreciate the invitation to attend, Dr. Jenifer. I wrote you a letter explaining. I will be out of town on that day. My deepest congratulations, and I look forward to working with you.

Welcome to the subcommittee.

## SUMMARY STATEMENT

Dr. **Jenifer**. Thank you very much. Indeed, it is a pleasure to be here. Belated congratulations to you. We are both having a good year it seems.

I want to first thank you very, very much for the support that you and the committee have given Howard University. Clearly, my review of the record indicates that this committee has been very, very understanding of the issues facing Howard University and the important role that institution plays in this Nation and for this Nation.

On behalf of the Howard University administration, I am pleased to be before you today. Our request is for $190.9 million for fiscal year 1992.

### ENDOWMENT PROGRAM

As you have noted, this budget consists of a $1.6 million increase in the endowment program. I am pleased to tell you that the entire amount of endowment, that has been given to Howard University under the endowment program, has been fully matched by Howard University last month. We are very pleased with that.

We also have a $5.8 million decrease in construction in this particular budget. That is an unfortunate situation. As you recall, that was the first increase Howard University has had in its construction budget for over 8 years. On top of that, Senator, it is important to note that we have $145 million worth of deferred maintenance that has been judged to be critical at Howard University; $80 million of that is absolutely of a crisis nature.

Your support last year in that area was very, very helpful to us in getting a program to meet that deferred maintenance need.

### ACADEMIC PROGRAM

Our academic programs were funded at $153.5 million. That is level funding from last year. It is approximately a $1.8 million reduction from the previous year.

That amount of reduction from the year before is going to have an impact on our ability to maintain the quality of our faculty because of a lack of ability for us to continue to give them the kind of increases that we think they need in an already very competitive environment and one in which we have ranked pretty much last.

### RESEARCH PROGRAM

In the area of the research program, the recommendation is for level funding. We are very pleased to note that our research program is moving ahead at a very rapid pace. All of our programs are fully accredited.

The work that we have done this last year with the Commission has indicated where we have areas of strength. As I promised this committee last year, we are beginning to focus all of our attention to these areas of strength.

We believe this will have a dramatic impact on Howard University. Some of the areas that we are focusing on are international affairs and urban affairs. Two areas that are of great need for this country. In particular, we plan to focus on Africa and the Caribbean.

### HOSPITAL BUDGET

In addition to that, the hospital budget is level funded at about $28 million. As you recall, that budget is very important. Howard University serves as the second largest admitter in our emergency room of any other hospital in the city. We serve essentially as a second city hospital.

Our border baby problem and our long-term care patient problem are two problems that have grown and give us national attention. We believe we make a very important contribution to this city and a very important service to this Nation in this very critical area.

As I have noted in the formal budget message, my statement will be forwarded to the committee. I want to again thank you very much for your support. I pledge to you as I did when I came here and we met, that Howard University is going to continue along the road of trying to create the kind of excellence that this committee has so many years asked of us.

In addition to that Senator, I want you to know that we have already begun the process of trimming down the budget—moving our moneys from those things that we do not do so well to those things that we do well.

### PREPARED STATEMENT

I think it is having a national impact. I think it is getting to be a national model for the way institutions of our Nation should behave. I am very happy with that.

I hope that this meets with some of the things that we talked about earlier in the year. I have tried my best to meet my side of the prospect. I must say, the committee has been very responsive in meeting its responsibility.

[The statement follows:]

### Statement of Franklyn G. Jenifer, President, Howard University

Mr. Chairman and members of the committee, on behalf of the Howard University community and the Administration, I am pleased to appear before you to present the Federal appropriation request for Howard University for fiscal year 1992.

The Administration is requesting, on behalf of the University, a Federal appropriation of $190.9 million for fiscal year 1992. Consistent with the long-term goal of enhancing Howard's financial strength and stability, the 1992 request would provide a $1.6 million, or 54 percent, increase in the endowment program. A $5.8 million decrease in funds for construction reflects a one-time appropriation in 1991 for emergency purposes. Federal support for the academic program, research, and the Hospital would be level funded.

#### ACADEMIC PROGRAM

A Federal appropriation of $153.5 million is requested for the academic program, a level that is equal to the fiscal year 1991 appropriation. These funds, along with those ultimately realized from currently anticipated non-Federal revenue, will be used to maintain obligatory expenditures for fiscal year 1992. In 1992, the University will continue to focus on significant efforts to address continuing accreditation deficiencies and to improve the competitiveness of faculty and non-faculty salaries.

For academic year 1991-92, the University plans to increase tuition rates by an average of 8.7 percent. In addition, the second phase of the surcharge plan for international students takes effect in the fall of 1991. The plan calls for a 3-year phase-in consisting of a 10 percent surcharge in the first year, a 30 percent surcharge in the second year, and a 50 percent surcharge in the third year.

#### ENDOWMENT PROGRAM

An increase of $1.6 million over the fiscal year 1991 appropriation level will allow the University to continue its effort to build its endowment by increasing the Federal matching component of the program. In 1990, the University launched a very successful new fund-raising campaign designed to raise private sector monies for matching the endowment grant. This effort resulted in donations of over $3 million, which allowed the entire 1990 endowment grant, as well as unearned amounts carried over from 1989, to be matched in fiscal year 1990.

In recognition of the continuing need to increase non-Federal revenue sources, the University fully supports proposed legislation that would stimulate fund-raising from private sources by replacing the current one-to-one Federal to non-Federal matching program with a two-to-one and a three-to-one match for all non-Federal contributions over $1 million and $2 million per year, respectively.

### RESEARCH

The University's research appropriation request is $4.6 million, which is the same as the fiscal year 1991 appropriation. These research funds will support the continued progress of our graduate and professional programs.

### HOWARD UNIVERSITY HOSPITAL

The fiscal year 1992 request for Howard University Hospital is $28.3 million, which is the same as the 1991 appropriation. This continued funding will assist the Hospital in reducing operating losses.

I wish to take this opportunity to convey appreciation to the Committee for its continued support for Howard University. As I begin my second term as president, I pledge to lead this institution to greater prominence and recognition in order to face the challenges of the twenty-first century.

I will be happy to answer questions that you or members of the Committee may have concerning our request.

---

### BIOGRAPHY OF FRANKLYN G. JENIFER

Position: President.

Birthplace and date: Washington, DC, March 26, 1939.

Education: Howard University, 1962, B.S.; Howard University, 1965, M.S.; University of Maryland, 1970, Ph.D.

Experience—1990 to present: President, Howard University.

1986-90: Chancellor, Massachusetts Board of Regents of Higher Education, Boston.

1979-86: Vice Chancellor, New Jersey Department of Higher Education, Trenton.

1977-79: Associate Provost, Rutgers University.

1976-77: Chairperson, University Senate, Rutgers University.

1974-77: Chairperson, Biology Department, Livingston College.

1970-79: Professor of Biology, Livingston College, Rutgers University.

1962-70: Plant Virologist, U.S. Department of Agriculture, Pioneering Laboratory, Beltsville, Maryland.

Association memberships: Task Force for Minority Achievement in Higher Education of the Education Commission of the States Committee on Educational Equity of the American Association of State Colleges and Universities.

Commission on Women in Higher Education of the American Council on Education.

Pew Health Professions Commission.

American Association for the Advancement of Science, National Council for Science and Technology Education.

Federal City Council.

Board memberships: American Council on Education; Chesapeake and Potomac Telephone Company; and Council for Aid to Education.

Honorary degrees: Doctor of Humane Letters, University of Medicine and Dentistry, New Jersey, 1989; Doctor of Laws, Babson College, 1990; Doctor of Laws, Boston College, 1990; Doctor of Laws, Mount Holyoke College, 1990; and Doctor of Education, Wheelock College, 1990.

Senator **HARKIN**. Thank you very much, Dr. Jenifer.

I did not want to interrupt you after I had recognized you, but I am remiss in not recognizing Senator Gorton.

I apologize for that.

I also want to leave the record open before your statement for any opening statement that Senator Specter has to make. Thank you for that very much.

I think rather than questioning individuals, unless you have something.

Senator **Specter**. No; I would rather go through the panel.

Senator **Harkin**. Fine. I would appreciate that.

## GALLAUDET UNIVERSITY

## STATEMENT OF I. KING JORDAN, PRESIDENT

### BUDGET REQUEST

Senator **Harkin**. Next, we will recognize I. King Jordan, the president of Gallaudet University. A total of $70.8 million is requested. That is again, less than the amount for 1991, about $1.4 million less than 1991.

Again, Dr. Jordan, welcome back to the subcommittee. Please proceed.

Dr. **Jordan**. Thank you, Mr. Chairman.

It is a pleasure for me to join you this morning. Am I close enough to the microphone? Can you hear me all right?

Senator **Harkin**. Yes.

Dr. **Jordan**. Thank you.

I began my fourth year as president of Gallaudet University this month. It is my pleasure to come back and testify before your committee for the fourth time.

### MENTAL HEALTH PROGRAMS

This has been a very good year for Gallaudet University. It has been a year of growth and accomplishment. One thing I especially want to point out to you is the establishment of both of the new graduate programs in mental health that I previously have said were a very high priority.

In my first testimony before this committee, I said mental health was one of the areas to which we really needed to pay attention. We have established an MSW program and a Ph.D. program in clinical psychology. Both are fully operational.

I appreciate your support too. With your continued support and that of the Department of Education, we will continue to achieve our mission at Gallaudet University.

The President's budget that you have before you will allow us to continue to provide the basic services that we now do. I do want to caution you that it will not allow us to establish any new programs or lead to program growth. It will not allow me to provide the kind of compensation increases that I think are necessary, as Dr. Jenifer said, especially in this competitive market for faculty. It may also cause us some cash flow problems related to the construction that we plan to begin in May of this year.

### COMMISSION ON EDUCATION OF THE DEAF

As I have testified to you each year, the university continues to pay attention to the recommendations from the Commission on Education of the Deaf. I am proud to report to you that the board of trustees now has a deaf majority.

There are 18 members of the board: 3 congressional members, 9 deaf members, and 6 hearing members. We are very proud to see that happen. I also want to add that the new deaf members of the board of trustees were selected not just because they are deaf, but because they bring to the board very special qualities in addition to their deafness.

## STAFFING REDUCTIONS

We have been cooperating with the Department of Education related to a planning review study and to tracking the pre-college program's national mission costs. Significant program reviews are happening on campus as well. For example, the staff reduction plan that I announced last year reached the goal of reducing staff by 2 percent during the year. We expect to reduce that by 2 percent this year and again next year. This will give us some very necessary budget flexibility.

## MIDDLE STATES ASSOCIATION

The Middle States Association Accreditation Organization just finished an accreditation review of the Model Secondary School for the Deaf. I am happy to report that it came through very well. MSA will visit the university programs at the beginning of April this year. We also expect that those programs will be accredited with no problems.

## FOCUS ON EXCELLENCE

We will continue to focus on excellence. We have established three priority areas that I think will lead us to more excellence in our programs.

First is communication, especially communication in the classroom. What is the best way to communicate ideas and issues to deaf students in the university classroom? We have added to that issues related to the improvement of learning and instruction.

Finally, there is faculty and staff development. What can we do to help faculty and staff people grow professionally and become even better service providers to deaf people?

Gallaudet constituencies continue to expand. As more and more attention comes to the university, more and more inquiries arrive related to services we can or perhaps should provide.

We will continue to seek funding for these kinds of programs from areas outside the Federal Government. However, I believe very strongly that for Gallaudet to continue to provide outstanding programs in any area, our base budget must be anchored firmly in the Federal appropriation.

## PRECOLLEGE PROGRAMS

One unique feature of Gallaudet is the precollege programs. These are the Kendall demonstration elementary and model secondary schools. Last year we had a significant upgrade in our outreach activities. We are very happy to see that improving.

We support the Department's request to combine into a single account the MSSD and the KDES budgets. That should give us additional budgeting flexibility and allow us to move the resources to the areas where they are most necessary.

### ENDOWMENT PROGRAM

The Endowment Matching Program continues to be very successful. We completely matched the first 3 years and have almost matched the fourth. So, we are happy to report that we are successful in that regard. We are very enthusiastic about continuing to have this program which will allow us to grow significantly in the endowment area.

Construction is due to begin this year on the Hall Memorial Building, the main classroom building on campus. That classroom building, as you know, was built in 1958 and has very serious deficits.

Also, we did a very thorough space analysis and review and found that we need additional classroom space. We plan to begin in the spring with the new construction phase. We are committed to raising half of the money it will cost to do that construction.

### PREPARED STATEMENT

We expect that our partnership with the Department of Education will lead to a significantly improved educational environment. As I said at the beginning of my remarks, this budget will allow us to fulfill our basic mission, but we will not be able to either achieve programmatic initiatives or the kind of compensation that I think we should achieve.

Thank you very much for the opportunity to share my thoughts with you.

Senator HARKIN. Thank you very much, Mr. King.

[The statement follows:]

### STATEMENT OF I. KING JORDAN, PRESIDENT, GALLAUDET UNIVERSITY

Mr. Chairman and members of the committee, I am very pleased to come before you today as the eighth President of Gallaudet University. As you are no doubt aware, the events of the last few weeks are unprecedented in the history of Gallaudet and of the deaf community in the United States and around the world. I believe that these circumstances have reenergized our campus community and have refocused our understanding of our mission. That mission, simply put, is to provide the best possible higher education to deaf students in our university programs, to provide the best possible national demonstration programs in our elementary and secondary schools, to be the world leader in research related to deafness, and to conduct outreach and advocacy programs to improve the lives of deaf people. Our focus, in the near term, will be on excellence in all of our programs. On this auspicious occasion, I also wish to express my deep appreciation, and the appreciation of deaf people everywhere, to the Congress of the United States for the support it has given Gallaudet University during the past 124 years. I am confident that, as we enter a new era at Gallaudet, that support will be continued and strengthened.

I come before you today in support of the Administration's budget request for Gallaudet University. I also take this opportunity to express my personal views on several issues, including certain recommendations of the Commission on the Education of the Deaf.

Gallaudet for many years aspired to become a distinguished special university, and the Congress has helped us to achieve that goal. Already, Gallaudet has demonstrated that it is an institution of international scope. We draw our students from a select group of college-bound deaf students from all fifty States as well as from many other countries. We serve the outreach needs of a growing proportion of organizations and individuals who interact with and on behalf of deaf people, and we operate the world's leading center for research to improve the quality of life for hearing-impaired people of all ages and degrees of hearing loss.

In addition to the events at Gallaudet during the past several weeks, another milestone in the history of deaf education has recently been reached. The public law that created Gallaudet University also established a national Commission on Education of the Deaf. That Commission has now completed its work. While providing guidance to the field of deafness, the report of the Commission also contains recommendations to the Congress that, if adopted, would severely constrain Gallaudet's role in the international arena and as the world's leader in research related to deafness. Although I have already addressed those recommendations before the authorizing committees of both Houses of Congress, I believe that it is essential that I address them here as well. I firmly believe that Gallaudet cannot continue to fulfill its role as the distinguished special university serving deaf people unless we are allowed to continue as the international leader in higher education of deaf people and unless we continue to conduct a full panoply of research programs related to the vital needs of the world deaf community. I ask you to join me today in reaffirming Gallaudet's mission to be the world leader in the education of deaf people and in recognizing the appropriateness of locating such a world leader in the capital of the world's greatest nation.

During the past year, much attention has been focused on Gallaudet's tuition structure. We are cooperating with the Department of Education in a study of the costs associated with educating international students and in establishing appropriate tuition for them. In this regard, I would like to draw your attention to two things: first, Gallaudet's traditional role in providing higher education for the world deaf community; second, our traditional association with land grant institutions in establishing tuition for U.S. deaf students. This association was noted by our founder, E.M. Gallaudet, when he first sought Federal support for the National College for the Deaf more than 100 years ago: "I felt justified in asking such action of Congress in view of the liberal grants of land to the States under the Agricultural Colleges Act, from the benefits of which the deaf youth of the country were shut out."

In focusing on the vital role that Gallaudet plays in furthering the interests of deaf people, it is inevitable that I should address the needs of the people who are the University—namely, Gallaudet's faculty and staff. In fiscal year 1988, Gallaudet University received a reduction in the amount of its appropriation that was devoted to current operations. This reduction came at a time when our President and Board had made a commitment to the faculty to return them to parity in compensation with their peers at other local universities. We have attempted to meet that commitment to our faculty in 1988. However, we are concerned that we will again fall behind at the end of fiscal year 1988 in our compensation programs to faculty and staff. We have begun an intensive review of programs and services. One of the purposes of this review will be to find permanent funding for the fiscal year 1988 increases. To assist in this effort, I ask that you grant the request for additional funds contained in the Department of Education's fiscal year 1989 budget. These funds are vitally needed if we are to retain our highly trained faculty and staff.

## UNIVERSITY PROGRAMS

The focus in our University programs in fiscal year 1989 will be upon excellence—excellence in teaching and excellence in student performance. This will be the guiding principle for our comprehensive review of programs. We will attempt to provide the most cost-effective programs possible without sacrificing the level of quality that has brought us high rankings in national surveys of college and university presidents.

In addition, in fiscal year 1989 we will focus on program development in two major areas. The deaf population of the United States has long been underserved by social service and mental health professionals trained to serve deaf people. Gallaudet proposes to launch two new graduate programs designed to help correct this deficiency: A Master's degree in Social Work and a Ph.D. program in clinical psychology. During coming months we will be studying the feasibility of establishing these programs given the current constraints on our funding level and the need for compensation improvements for all of our faculty and staff.

In the areas of research and outreach, I am committed to programs designed to meet the needs of expanding constituencies. Gallaudet will continue to seek funding for expansion of these programs from sources other than Federal appropriations. Howewer, I firmly believe that in order for Gallaudet to maintain quality programs in these areas on an ongoing basis, we need to retain a funding base rooted in our appropriation.

### MODEL SECONDARY SCHOOL FOR THE DEAF AND KENDALL DEMONSTRATION ELEMENTARY SCHOOL

A unique feature of Gallaudet University is the existence of its two pre-college programs—the Model Secondary School for the Deaf (MSSD) and the Kendall Demonstration Elementary School (KDES). Both schools continue to develop exemplary instructional programs, conduct research and develop and disseminate materials for both mainstream and residential school settings. The GAO recently completed a study of the national mission of these schools which revealed a high level of satisfaction among the users of educational products developed by MSSD and KDES.

### ENDOWMENT MATCHING PROGRAM

Under my administration, Gallaudet remains committed to increasing the proportion of funding that comes from sources other than direct appropriation. The endowment matching program has proved very useful to us in convincing potential donors to support us financially, and during the first year of its existence we were able to match the available funds. We look forward to the continuing challenge of increasing our endowment funds.

### FISCAL YEAR 1989 BUDGET

The budget request of $63.5 million for Gallaudet University includes an increase for operations of $1,225,000. These funds will be used primarily for compensation improvement programs. Also requested is an increase of $43,000 in the endowment matching program that would bring it to the $1 million authorized in the Education of the Deaf Act of 1986.

Mr. Chairman, I thank you for this opportunity to come before you today, and I welcome your questions.

---

### BIOGRAPHY OF I. KING JORDAN

Position: President, Gallaudet University.

Birthplace and date: Glen Riddle, PA—June 16, 1943.

Education: University of Tennessee, 1973, Ph.D. Psychology; University of Tennessee, 1971, M.A. Psychology; Gallaudet College, 1970, B.A. Psychology.

Experience—present: President, Gallaudet University, Washington, D.C.

1986-3/7/88: Dean, College of Arts and Sciences.

1983-86: Chair, Department of Psychology.

1982-88: Professor of Psychology.

1977-82: Associate Professor of Psychology.

1973-77: Assistant Professor of Psychology.

Co-chair, Committee on Education, D.C. Mayor Dixon's Transition Team, 1990.

Chair, Committee on Education, D.C. Commission on Budget and Financial Priorities, 1990.

Member, National Institute on Deafness and Communicative Disorders Advisory Board, 1990.

Member, Electronic Industries Foundation Advisory Board, 1990.

Honors and awards: Honorary Doctor of Laws, New England College, 1990.

Honorary Doctor of Humane Letters, Towson State University, 1989.

Honorary Doctor of Humane Letters, Pacific Graduate School of Psychology, 1989.

## NATIONAL TECHNICAL INSTITUTE FOR THE DEAF

## STATEMENT OF WILLIAM E. CASTLE, DIRECTOR

### BUDGET REQUEST

Senator **HARKIN**. We will now hear from Dr. William Castle, director of the National Technical Institute for the Deaf. As I said in my opening statement, a request of $37.2 million or $14,000 more than appropriated for fiscal year 1991, which, of course, when you take inflation into account, it is really not an increase at all.

Dr. Castle, welcome again to the subcommittee. Please proceed.

Dr. **CASTLE**. Thank you very much.

I am very happy to be with you again this morning. You know that $14,000 increase is with respect to the endowment fund. We would have to match that in order to collect it.

### REPETITIVE MOTION INJURY

I would like to highlight a few things, if I could, please. I want you to know that we are still dealing with the repetitive motion injury problem that our interpreters have faced for some time.

We have faced a short fall in equipment purchases for the past 3 years because of budget limitations. I anticipate that if we are level funded in operations, we will have the same problem for a fourth year in a row.

### COMPENSATION LEVELS

We have the same problem as Gallaudet and Howard University with respect to meeting salary increments of an order that would make us competitive with other institutions.

### FOREIGN STUDENTS

You may note also that this is the first year that NTID has admitted foreign deaf students. This is coincidental to the fact that we were the chief host of the International Congress on Education of the Deaf this past summer.

Analogous to what Gallaudet has done with its board of trustees, we now have 56 percent of the membership of the national advisory group of NTID composed of deaf persons. This follows carefully the recommendation that came forth from the Commission on Education of the Deaf.

### PREPARED STATEMENT

Mr. Chairman, I greatly appreciate the committee's interest in being sure that the special institutions remain viable with respect to their operations.

Senator HARKIN. Dr. Castle, thank you very much. And again, thank you for being here. We have some questions that I want to cover with you on NTID.

[The statement follows:]

# STATEMENT OF WILLIAM E. CASTLE

Mr. Chairman and Members of the Committee:

I am pleased to present the President's 1992 budget request for the National Technical Institute for the Deaf.

The National Technical Institute for the Deaf (NTID) at the Rochester Institute of Technology (RIT) was created by Congress to provide postsecondary technical education for the Nation's young deaf people to prepare them for successful employment. NTID trains professional staff to serve the Nation's deaf population and conducts research into educational achievement, communications, personal/social instruction, and economic and employment aspects of deafness. The 1992 request for the National Technical Institute for the Deaf is $37,226,000, which includes $342,000 to support an endowment matching grant program.

The specifics of the fiscal year 1992 request follow.

## Operations

The fiscal year 1992 request of $36,884,000 for operations, which includes funds for services to students, research, training, information dissemination, and special outreach services, is the same as the 1991 appropriation level. Funds that will be received by NTID for tuition, room and board, and fees are expected to increase by up to 10 percent in 1992 above the total expected in 1991. The Federal subsidy will constitute approximately 82 percent of total funding in 1992.

Admissions for fiscal year 1991 were 386, a slight increase over 1990, but in the same range as total admissions over the past 5 years. At the same time, enrollment has stabilized at around 1,100. Fiscal year 1990's enrollment was 1,096 and fiscal year 1991's is 1,105, including foreign students. For the fall of 1991, the beginning of fiscal year 1992, NTID plans to admit approximately 400 new students. This would result in an enrollment level of approximately 1,140 students. That level would be about 11 percent over pre-rubella levels at the Institute. As the admission of international students increases, enrollment may increase slightly to between 1,100 and 1,150 in the future. The 1992 request for operations also would support academic programs in the areas of career development, research, and educational outreach.

## Career Development

The education provided at the National Technical Institute for the Deaf transcends that which is typically provided by a traditional technical institution by dealing with personal/social and communication setbacks that persons who are deaf may experience. Through a coordinated system of direct instruction and support services such as tutoring, notetaking, use of classroom technology, and career counseling, the Institute strives to offer educational programs geared to the specific needs of each student. This approach has been highly successful. Historically, more than 90 percent of our graduates who seek employment have been placed in jobs within eighteen months of their graduation.

## Research

Studies performed through NTID's Department of Communication Research, as well as our Department of Educational Research and Development and Office of Postsecondary Career Studies and Institutional Research, benefit deaf students and adults throughout the country. In addition to fulfilling their primary mission--providing information that can lead to better teaching, training, and curriculum development at NTID--research findings can have an even greater impact when they are applied on a national and international basis. The research activities of these departments are guided and organized according to six general priorities for research described in our Framework for Considering Educational and Non-Educational Influences on the Attainments of Deaf Persons.

The Framework defines six priority areas related to persons who are deaf:

- economic and occupational assimilation;
- academic and technical skills;
- communication skills;
- personal/social skills;
- effective instruction; and
- institutional planning, evaluation, and change.

While these priorities are not mutually exclusive, they do provide NTID a rationale for grouping research activities. The model for research proposed in the Framework is used with the above six priorities to shape NTID's long-range research agenda to ensure that it has a constructive influence on educational practices and policies affecting persons who are deaf. Some highlights of this year's accomplishments are listed below:

- Efforts were continued to further develop and refine the Sign Communication Proficiency Interview, a tool that assesses sign communication skills of faculty and staff. Information regarding this proficiency measure was shared with school administrators at programs for deaf students in Alabama, Florida, and New Jersey.

- Researchers this year intensified their study of the linguistic structure of American Sign Language in an attempt to improve the quality of NTID's sign language courses.
- The NTID Computer-Aided Speech to Print Transcription System (C-Print) will be tested in classroom settings in fiscal year 1991 and, if feasible, will be offered as a support service in one class by the end of academic year 1990-91. This system offers the potential for an alternative to the expensive Real-Time Graphic Display system. Its advantages are that it is easily portable, relatively inexpensive, and may require only a moderate amount of operator training time--four to six months, as opposed to two years for a courtroom stenographer. The new system uses a standard keyboard and IBM or compatible computer and employs a dictionary of abbreviations that may enable the typist to save enough key strokes to reach real-time recording.

- An important focus of efforts this year was on the numbers and characteristics of future deaf students, interactions of those students in college social life, and factors affecting retention of deaf college students. For example, NTID research revealed that the pool of deaf people between the ages of 18 and 21 is changing. While the total number of deaf people in that age group is decreasing, the number of minority students in that pool grew from 29 percent in 1982 to 35 percent in 1990 and is expected to reach 39 percent by the year 2000.

## Educational Outreach

NTID has a long history of providing outreach services to deaf people, educators of persons who are deaf, and other interested parties as evidenced by its various interpreter and notetaker training programs, the "Explore Your Future" summer program for high school juniors, the Educational Specialist Graduate Program for math and science teachers, and the Intern Program where graduate students and professionals in the field of deafness serve under the mentorship of NTID professionals.

About six years ago, the Senate subcommittee on Disability Policy asked NTID to increase its outreach efforts after the rubella students were served. In response to their challenge, NTID created the Educational Development Outreach Project. This project provides technical assistance focused on primary and secondary schools, employers of persons who are deaf, adults who are deaf, parents of individuals who are deaf, and rehabilitation and placement professionals. Currently, we are in the third year of implementation of this project. Most activity to date has centered on employers. Four programs are currently being offered across the country: "Working Together: Deaf and Hearing People," "Getting Your Job Done," which encourages personnel officers to hire persons who are deaf, "Climb the Career Ladder" for alumni and other deaf professionals, and "Training the Trainer," which teaches personnel officers to offer "Working Together" to their own staff. With respect to primary, secondary, and postsecondary educators, 43 math and science educators participated in a program to help them devise better strategies for teaching the deaf learner in mainstream settings.

## Endowment Grant

Three hundred and forty two thousand dollars is requested for the endowment matching fund authorized by the Education of the Deaf Act of 1986. NTID will receive these funds as it raises additional endowment funds from non-Federal sources on a dollar for dollar matching basis. The Institute can spend up to fifty percent of the income derived from the investment of the funds for operating purposes. The use of the endowment approach is an important step toward decreasing NTID's dependence on Federal funding in future years. In fiscal year 1990 NTID matched all $322,000 that was appropriated. In all, NTID endowed funds, including federally-matched funds, now total $2,256,528.

## Summary

In summary, the 1992 request is designed to continue the National Technical Institute for the Deaf's commitment to the achievement of equal opportunities for handicapped persons. In the Institute's brief history, it has been shown that young deaf adults can overcome the consequences of their handicap, become contributing members of society, and vastly improve the quality of their lives. On the pragmatic side, recent collaborative research between NTID and the Internal Revenue Service indicates that on the average, persons who graduate from NTID pay back the cost of their education in 10 to 13 years and have lifetime earnings that are 2 to 3 times greater than deaf persons with no degree.

Mr. Chairman, I will be pleased to answer any questions you may have.

---

## BIOGRAPHY OF WILLIAM E. CASTLE

| | | |
|---|---|---|
| POSITION | : | Vice President of Government Relations,<br>Rochester Institute of Technology, Director, NTID |
| BIRTHPLACE AND DATE | : | Thomas, South Dakota - September 5, 1929 |
| EDUCATION<br>1951 - B.S. | : | Northern State College, Aberdeen, South Dakota,<br>State University of Iowa, 1958 - M.A.<br>Stanford University, 1963 - Ph.D. |
| EXPERIENCE | : | |
| PRESENT | : | Vice President, Government Relations, RIT<br>Director, NTID |
| Sept. 1979 | : | Vice President, RIT<br>Director - NTID |
| 1977-1979 | : | Dean and Director, NTID |
| 1969-1977 | : | Dean, NTID |
| 1968-1969 | : | Assistant to the Vice President & Director of Division of Instructional Affairs, NTID |
| 1965-1968 | : | Associate Secretary for Research and Scientific Affairs, American Speech and Hearing Association |
| 1963-1965 | : | Assistant Professor, Speech Pathology & Audiology, University of Virginia |
| Summer 1961 | : | Instructor, Speech Correction, Central Washington State College |
| 1960-1961 | : | Instructor, English, Experimental Phonetics Lab, Stanford University |

1958-1960 : Instructor, Speech Correction, St. Cloud State College

1956-1958 : Graduate Student at the State University of Iowa

1952-1956 : Communications Specialist, United States Air Force

1951-1952 : Secondary Teacher, English & Speech, Faulkton High School, Faulkton, South Dakota

ASSOCIATION MEMBERSHIPS : Academy of Rehabilitative Audiology
Alexander Graham Bell Association for the Deaf, Inc.
(Life Membership - currently serves as President)
American Association for the Advancement of Science
American Association of Community and Junior Colleges
American Association of Higher Education
American Association of Phonetic Sciences
American Association of School Administrators
American Deafness and Rehabilitation Association
American Speech-Language-Hearing Association
American Society for Deaf Children
Association for Equality and Excellence in Education, Inc.
Association on Handicapped Student Service Programs in Postsecondary Education
Conference of Educational Administrators Serving the Deaf, Inc.
Convention of American Instructors of the Deaf
Council for Exceptional Children
Empire State Association of the Deaf
International Society of Phonetic Sciences
Monroe County Association for Hearing Impaired
National Association of the Deaf
National Organization on Disability
National Rehabilitation Association
New York State Speech & Hearing Association
Registry of Interpreters for the Deaf
Telecommunications for the Deaf, Inc.
World Federation of the Deaf

PUBLICATIONS : Castle, W.E. "Mainstreaming Techniques for Hearing Impaired Students - What Ten Years Have Taught Us." Presented at the First Annual Conference of the Massachusetts Office on Deafness, October 1978.

Castle, W.E. "Road to Independence." Presented at the West Coast Family Outing of the Alexander Graham Bell Association of the Deaf, November 1978.

Castle, W.E. "Recent Developments in Vocational Education for the Deaf in the U.S.A." Presented at the 8th World Congress of the World Federation of the Deaf, Varna, Bulgaria, June 1979.

## AMERICAN PRINTING HOUSE FOR THE BLIND

### STATEMENT OF TUCK TINSLEY, III, PRESIDENT

### BUDGET REQUEST

Senator HARKIN. Next, we will hear from Dr. Tuck Tinsley, president of the American Printing House for the Blind. As I said, their request is for $6.1 million, level funding from last year.

Dr. Tinsley, welcome back. Please proceed.

Dr. TINSLEY. Thank you, Mr. Chairman. It is a pleasure to appear before your committee this morning.

### APH PROGRAM DESCRIPTION

The American Printing House for the Blind was charted by the Commonwealth of Kentucky in 1858 for the nonprofit manufacture of books and other materials used by blind persons.

In 1879, Congress passed the act to promote the education of the blind, which, as amended, now enables the American Printing House to produce and distribute educational materials for all legally blind students in precollege level programs, in the United States, its territories and possessions.

The materials produced by the American Printing House are in four general categories: Textbooks and magazines in braille, large type, and recorded formats; recording and writing equipment; tangible aids for the education of blind students; and special supplies used by blind students and adults served through vocational rehabilitation programs.

The educational materials are distributed to programs serving the blind through proportional allotments based upon the number of blind students in each program. An annual census is conducted by the American Printing House for the Blind to identify blind students in each program and allotments are then provided in the form of credits.

### BUDGET REQUEST FOR THE PRINTING HOUSE

The total request for this program for 1992 is $6.136 million, the same as the 1991 appropriation. This amount would provide approximately 35 percent of APH total sales income, the remainder coming from contracts with other Federal agencies, product sales to State and local agencies, and individual purchases. Private donations and investments provide additional revenue.

Of the funds requested for fiscal year 1992, $5,579,000 would be used to supply special educational materials to an estimated 49,750 blind students. Additionally, $166,000 would be used for advisory services and $391,000 for educational and technical research.

### PREPARED STATEMENT

APH continues to be committed to meeting the needs of blind students through research, development and provision of educational materials necessary for their growth and development.

Thank you, Mr. Chairman.

Senator HARKIN. Thank you, Dr. Tinsley.

[The statement follows:]

## Statement of Tuck Tinsley III, President, American Printing House for the Blind

Mr. Chairman and members of the committee, The American Printing House for the Blind (APH) was chartered by the Commonwealth of Kentucky in 1858 for the nonprofit manufacture of books and other materials for use by persons who are blind. In 1879, Congress passed the Act to Promote the Education of the Blind which, as amended, now enables APH to produce and distribute educational materials for all legally blind students enrolled in formal educational programs below the college level throughout the United States, its territories, and possessions. These materials include textbooks in braille and large type, educational tools such as braillewriters and microcomputer software and hardware, teaching aids such as educational tests and performance measures, and other special supplies.

The educational materials are distributed to programs serving the blind through proportional allotments based on the number of blind students in each program. An annual census is conducted by APH to identify blind students in each program and allotments are provided in the form of credits.

The total request for this program for 1992 is $6,136,000, the same as the 1991 appropriation. This amount would provide approximately 35 percent of APH's total sales income, the remainder coming from contracts with other Federal agencies, product sales to State and local agencies, and individual purchases. Private donations and investments provide additional revenue.

### EDUCATIONAL MATERIALS

Of the funds requested for fiscal year 1992, $5,579,000 would be used to supply special educational materials to an estimated 49,750 blind students. This number represents an estimated increase of 1,679 students over fiscal year 1991.

### ADVISORY SERVICES

The 1992 request includes $166,000 for advisory services. The advisory services activity supports two meetings each of the advisory committee on selection of textbooks and the advisory committee on research and development; the annual census of blind students; production of catalogs of educational materials; and field services such as consultation, inservice training, and workshops to inform administrators and teachers about available materials and how they are used.

### EDUCATIONAL AND TECHNICAL RESEARCH

The 1992 request also includes $391,000 for educational and technical research. These funds serve as a base to enable APH to develop needed educational materials in a variety of subject areas including braille reading and writing, low vision training, and microcomputer applications. In 1992, APH will continue to place a priority on the development of special materials for use with multihandicapped blind students and in areas such as early childhood, the functional use of residual vision, educational applications of microcomputers, and prevocational training.

### GENERAL INFORMATION

The American Printing House for the Blind continues to serve a growing number of blind students with complex needs who require a wide variety of educational materials. Public Law 99-457, passed by Congress in 1986, amended the Education of the Handicapped Act, subsequently renamed the Individuals with Disabilities Education Act, to require early intervention services for infants and toddlers aged birth through two years old with disabilities. Programs initiated in response to this law continue to increase the number of students to be served by APH. In 1992, the American Printing House will continue the development of new materials to serve blind children from birth through preschool.

Of the 48,071 legally blind students registered for fiscal year 1991, 39,878 (83 percent) were registered through State departments of education, 4,319 (9 percent) were enrolled in residential schools, 1,309 (3 percent) were enrolled in separate programs for the multihandicapped, and 2,565 (5 percent) were enrolled in rehabilitation programs. Among these students, 5,630 (12 percent) were registered as braille readers, 14,426 (30 percent) as visual readers, 6,399 (13 percent) as auditory readers, 5,426 (11 percent) as prereaders, and 16,190 (34 percent) as nonreaders.

Research and development efforts reflect advice from educators and consumers obtained on a national basis. New educational materials and teaching aids are developed and produced each year to keep educational programs current for blind students, with reprints and reruns of older materials produced as required. Additionally, APH uses its own funds to maintain a finished goods inventory of over $3.5 million to ensure timely delivery of special materials to the educational programs, including those funded through the Federal program.

Examples of new products released during the past twelve months include the following:

1. Stanford Achievement Test, Form J—braille and large type.
2. APH Scientific Calculator: For Apple II Computers.
3. Read Again: A Braille Program for Adventitiously Blinded Print Readers.
4. Talking Typer—software program to improve keyboarding skills.
5. TEXTALKER—software program permitting voice access to Apple programs.
6. A User's Guide to the APH PocketBraille.
7. Effective Use of Objects: A Process Centered Intervention.
8. Apple II Owner's Manual: Disk Edition.

Two significant accomplishments during the past year were the completion of a strategic plan for APH and the development and implementation of a uniform compensation program for nonbargaining unit employees. In addition, APH emphasized its interest in receiving advice from the field by actively involving the following advisory committees: Educational and Research Development, Publications, APH-CARL, Microcomputers, and APH-DOTS. In addition, several project consultant and ad hoc committees of direct service providers and consumers were convened.

The American Printing House for the Blind continues to be committed to meeting the needs of persons who are blind through the research, development, and provision of educational materials necessary for their growth and development.

Mr. Chairman, I will be glad to answer any questions concerning the budget request.

---

## BIOGRAPHY OF TUCK TINSLEY III

Position: President, American Printing House for the Blind.

Birthplace and date: Jenkins, Kentucky, July 30, 1946.

Education: Florida State University, B.S.; Florida State University, M.S.; and University of Florida, Ed.D.

### EXPERIENCE:

1989-present: President, American Printing House for the Blind, Louisville, Kentucky.

1980–89: Principal, Florida School for the Deaf and the Blind, St. Augustine, Florida.

1981 (6 months): Interim President, Florida School for the Deaf and the Blind, St. Augustine, Florida.

1979–80: Assistant Principal, Florida School for the Deaf and Blind, St. Augustine, Florida.

1978–79: Acting Assistant Principal, Florida School for the Deaf and the Blind, St. Augustine, Florida.

1968–79: Mathematics Teacher, Florida School for the Deaf and the Blind, St. Augustine, Florida.

Publications: Seventeen professional monographs and articles regarding the blind and visually impaired.

## HOWARD UNIVERSITY COMMISSION

Senator HARKIN. Dr. Jenifer, again I want to extend a special welcome to you since this is your first official time before the subcommittee, although we have had the privilege to talk privately before.

You have been president of Howard University for less than a year.

The Howard University Commission recently issued a comprehensive evaluation report of the university. Based on that report, you have made recommendations for sweeping reform. I understand that on March 2, the board of trustees unanimously endorsed those recommendations.

Dr. **Jenifer**. Correct.

Senator **Harkin**. Again, Dr. Jenifer, I want to commend you for your commitment to this project. I believe we will look back on these days as some of the most significant in Howard's history.

### HOWARD 2000 PLAN

Could you please summarize, just briefly, your recommendations made in that Howard 2000 Plan, or at least the recommendations you think that we are going to have to be paying attention to as we move into our next appropriation cycle?

Dr. **Jenifer**. Certainly. Thank you very much, Senator.

In fact, you will recall we talked very early in my tenure here at Howard University about an idea that we agreed on would move Howard University forward in a very rapid fashion.

Our intention in this was to try to put Howard University on the very front burner of institutions of higher education in this Nation.

We are clearly recognized by all parties as being the premier historically black university in the country, if not the world. However, Howard University has the faculty and the resources to be a major research university. The only thing that stood between us in the achievement of that goal was the will of the faculty and the family of Howard University to come to grips with some very tough problems.

It is for that reason that what we wanted to do to make that big jump was to, one, ask our friends for help. Our friends come from Congress, but they also come from our alumni and corporations around this country. But before we could ask anyone for help, we had to help ourselves.

The exercise your question relates to was just that. I think it has gotten a lot of national attention because it has been quoted as the boldest step of this nature in the history, or at least the last 20-year history, of higher education in the country.

What we essentially did was to make a proposition that those things that we could not be world class in or in which we did not have at least the potential of being world class in, we should not do. We should take the funds from those programs and invest them in the programs where we have a high level of quality.

### ELIMINATION OF PROGRAMS

The final recommendation that I made to my board requests the elimination of one major school, the school of human ecology. The school has approximately 600 students. It is as big as many colleges. We are moving some of the programs to other schools and colleges. We think we will get significant efficiency and also improvement in the quality of those programs.

In addition to that, we eliminated several programs in the various schools. We eliminated the physicians' assistants program. We merged some of the programs in the school of human ecology with some other programs. We eliminated the undergraduate program in education. We eliminated the undergraduate program in social work.

### CENTERS OF EXCELLENCE

We created two new centers of excellence. One of those centers was international affairs. The other center was urban affairs. We also created an institute in Islamic studies to be housed in the school of divinity.

More importantly, I am proud of the creation of a new scholarship program. The new scholarship program recognizes young men and women who come to Howard University with exceptional skills. It gives them a 4-year scholarship.

The other program, which we call the Howard Scholars Program, recognizes students who have had 32 credits at Howard University, who have achieved a 3.5 average or above, who have shown through their efforts on the campus the kind of high quality young men and women that they are, and who are prepared for some kind of leadership.

We will identify these young people as Howard scholars. We believe, through these programs of excellence, that we are focusing on the significant strengths of Howard. Put quite simply, Howard University has the largest contingent of African-American scholars of any other university in the entire world.

We have the largest collection of books on and about African-Americans than any other place in the world. We have the largest collection of art work than any other place in the world. We believe we can bring those rare resources to focus on issues that this Nation is concerned about.

Whether they are issues that develop in the Caribbean or in the Third World countries, you will see that Howard University began, once again, to state very clearly that it is a national resource worthy of the kind of support and faith that this committee and the Congress, in general, have provided over the last few years.

### COST ESTIMATES

Senator HARKIN. Dr. Jenifer, I have looked over all of those different recommendations. There are no cost estimates. I am just wondering how soon you may have some cost estimates?

Dr. JENIFER. We are hopeful that the next stage of this process is to sit down with each of the groups that has been merged or closed and have some consultation.

By the way, we have already been granted a $500,000 grant from the Mellon Foundation for the final implementation stages of the programs. We need to sit down with consultants to work out how these programs will be merged and what the merged programs' faculty-student ratios will be.

### REDUCTION OF PERSONNEL

Once we get a feel for that, and our overall faculty-student ratio is about 1 to 12, we would like to see the institution be about 1 to 15 in most of our programs. Then, we will begin to reduce the size of the personnel through attrition.

This will be a very aggressive reduction program, not the typical kind of program that you rhetorically hear people talk about. We have already instituted an Early Out Program, which deals with persons who have 10 years of service. We also have an Early Retirement Program for individuals whose years of service and age amount to 70.

We anticipate this will give us a population of about 100 to 150 vacancies that we will be able to review. When we combine that with the programs that we have just discussed in our academic review, and combine it with another very aggressive program that we have initiated in terms of our review of our administrative structure, we believe that we will be able to give you a much better figure on the size of the population and the dollar savings by the middle of next fall.

## CONSTRUCTION COSTS

Senator **Harkin**. Might I also ask you, Dr. Jenifer, in your opening statement you mentioned something about construction costs. I did not see it in your statement here. Could you briefly go over that again for me?

Dr. **Jenifer**. Yes, I will.

Last year, when we appeared before Congress, the question continually came up, what are the necessary deferred maintenance costs you have at Howard University. That was based on the fact that we have elevated this area as being a very serious concern for us.

We brought in an outside consultant who specializes in these affairs who looked at all 6 million square feet of our building and our facilities. That report came back, and I will tell you, Senator, it was absolutely startling. I had envisioned bad things, but nothing like what we saw. He identified $145 million worth of deferred maintenance that we had to take a serious look at. These were required kinds of maintenance activities.

Of that $145 million, $80 million was identified as an absolute crisis. They proposed a $16 million a year budget that was necessary to take care of these critical needs over the next 5 years. I will tell you, we do not have $16 million a year. Our best investment in the last few years has been $2 million. Congress gave us money for construction dealing with these matters last year. It was the first time in many years.

## INFRASTRUCTURE NEEDS

Now, this leaves a very serious problem. Of that $80 million, the most significant components are problems associated with what is referred to as the shell, the building shell; the roofs, the walls, the things that house or put the cover on the institution. When we look at that we have two major problems. We have two significant roof problems at our undergraduate library and in our school of divinity.

If you will recall, in the 1950's we had some very interesting architectural enterprises. Some of these flat roofs were produced. They did not know exactly what they were doing with them. On one of our buildings, they put a park on top of the building. A nice little place to sun in the daytime.

The water just pours through when it rains. It ruins the books. The same thing happens in the other buildings.

Also, our buildings are old; 68 percent of our buildings are 25 years or over; 15 percent of them are 50 years or older. As you have probably found when you talk to CEO's, one of the things that happens when the budget gets short, the first thing that gets cut are those things that do not talk back. And the buildings do not talk back.

Unfortunately, over history we have had some problems in that area. We are in the process now of trying to correct that. We only have a small percentage of our buildings 25 years and younger, but these give rise to some of the kinds of problems you mentioned.

The last area that the consultants have identified as critical is our plumbing and electrical needs. Last summer we had four brown outs. We began the process of testing the electrical cabling that runs through the university, our master electrical system. In the middle of testing the system, I had to call a halt to it.

The method that they used to test it was to load the wires to full capacity to determine the total voltage capacity. I was afraid, once they started loading wires, that we were going to have a total brown out. If that had occurred, and they tell me it can occur any month now, it would have cost us something like $6 million to repair.

Senator, I cannot tell you how many sleepless nights I have because of that. The maintenance issue at Howard University is one of crisis. Your support of us last year in this area was very helpful. I would hope that we would be able to make a case for some continued effort in that area.

Senator **Harkin**. Thank you very much, Dr. Jenifer. I appreciate that further explanation.

I know that Senator Specter has other committees he is involved in and I recognize him at this time.

Senator **Specter**. Thank you, Mr. Chairman.

I just want to join the chairman in welcoming you here. As you know, we have multiple assignments at the same time. So, I will be studying your testimony and staff will be present. I want to join the chairman in thanking you and other witnesses for your contribution.

Dr. **Jenifer**. Thank you very much, Senator.

Senator **Harkin**. Thank you, Senator Specter.

## FOREIGN STUDENT TUITION SURCHARGE

Dr. Jenifer, I have just one other question that I wanted to cover with you, the issue of foreign student tuition surcharge.

Two years ago, the appropriations bill implemented a tuition surcharge for foreign students to minimize somewhat the degree to which American taxpayers are subsidizing foreign students at Howard.

We agreed in conference that this tuition surcharge would be implemented over a multiyear period so as not to work a hardship on current students. This year, foreign students at Howard are paying full tuition plus 10 percent. Next year they will pay full tuition plus 30 percent. The following year, we will add on 50 percent.

I would like to know what the impact has been on foreign enrollment of the 10 percent surcharge implemented this year.

Dr. **Jenifer**. Again, thank you.

We respect the thought that went into the proposal that we increase our tuition up to the 50 percent level for a surcharge applied to students who come from foreign nations. I must say, Senator, I question the wisdom of that. Let me speak a little bit to that if you will allow me to.

First, we have had a reduction in foreign student enrollment. If you look at the foreign students who come to Howard University, 75 percent of those students come from 14 nations in the world.

Senator **Harkin**. Seventy-five percent.

Dr. **Jenifer**. Yes; 75 percent come from 14 nations. The nations of Jamaica, Trinidad, Tobago, and Nigeria compose the vast majority of that 75 percent.

Senator **Harkin**. Say those again.

Dr. **Jenifer**. Jamaica, Trinidad, Tobago, and Nigeria. The remainder of the countries are African and Caribbean nations. These are Third World countries; these 14 countries are Third World countries.

I can tell you that the population there and the young people that we get are not the sons and daughters of kings and queens. They are working class people. Many of them are poor. They come to Howard University for their first opportunity for an education.

Howard University serves this country very well in that respect. Over the last few months that I have been in office, one of the startling things that occurred to me was that I have had four heads of state visit Howard University.

Most university presidents in these United States would not have two heads of state visit them in a lifetime. We have had four. It is a customary practice when heads of state of Third World nations, especially from Africa or the Caribbean come to the United States, they stop at the White House first; they stop at Howard second. And that is because we have a long-time relationship with them.

At any point in time, up to one-third of the government officials of Trinidad or Jamaica will be Howard University graduates. When you go to Nigeria, the most important club in that country is not the Harvard Club, but the Howard Club.

Most of the persons there who are white collar workers are Howard graduates. We are probably the most respected university in the United States from a Third World point of view. Clearly, the United States should want to begin to establish a much better relationship with these evolving countries.

Our experience in the Persian Gulf indicated that we should have had a better understanding, and a better relationship with people of Third World countries. With that in mind, the surcharge had a negative impact on us. Students from the Third World who were coming to our university had already begun to decline.

The decline began to occur, however, about 5 years ago. That decline was primarily due to the devaluation of their currency. Their currency, for example, in the case of Jamaica, has declined almost 200 fold. It is a very serious problem for a Jamaican student. Tuition for them is not $5,000, it is more like $30,000 or $40,000 when you start converting it to their currency.

So, when we begin to apply on top of that a 10-percent surcharge we begin to see another dramatic decline. The decline that we have seen between the applications that we received last year versus this year has already demonstrated that the decline is going to have a serious impact on Howard University.

Based on the number of students we have admitted this year versus last year, we have had a 12 percent decline. We made about $70,000 because we increased the cost of tuition. But I wonder what kind of cost this Nation is paying for its most popular university in that part of the world to appear that it is not as concerned as it has been in the past about these particular students.

If this continues, we will end up with a smaller number of students and Howard University may in the long run, gain a few hundred thousand dollars. But, I question whether this is a true gain for Howard. But more importantly, I question whether this is a true gain for the Nation.

So, it has been a very difficult situation for us, but we believe very clearly that it is the result of a bad policy in some respects. The policy does not take the Nation's interest to heart. Certainly it is not consistent with the long-term role that Howard University has played for this Nation in that part of the world.

Senator HARKIN. Dr. Jenifer, your points really strike home with me. I was just conferring with staff, and I think we are going to have to revisit this this year to look at some possible changes in that.

There may have been a mistake made in going down that path. I want to revisit that and take a look at it. Would you give to us a written statement about what you said here and outline those arguments and those reasons. I had not thought about the devaluation of currency. I can see that. If you could point that out. The other points you were making are good points. If you could just get those to us, I would sure appreciate it.

Dr. JENIFER. I would be very pleased to do that.

[The information follows:]

### Foreign Student Tuition Surcharge

In response to a U.S. Department of Education recommendation, Congress approved the imposition of a tuition surcharge, effective in academic year 1990-91, for all newly entering foreign students at Howard University. At the time, the Department asserted that in academic year 1996-97, the University would realize $5.5 million in revenue through the application of this surcharge in its full implementation at 50 percent.

From the beginning, the University has consistently expressed concern that the imposition of a tuition surcharge would have an adverse effect on foreign student enrollment from applicants who come primarily from lesser developed countries in Africa and the Caribbean. Moreover, the University has stated its belief that the surcharge could also result in a decline in foreign student tuition revenue.

The University believes it is in the strategic interest of the United States to educate and train students who come from underdeveloped Third World countries and represent the future political, professional, and managerial leadership in their areas of the world. Of the 14 countries that account for 75 percent of the foreign student population at Howard University, 11 are Third World countries.

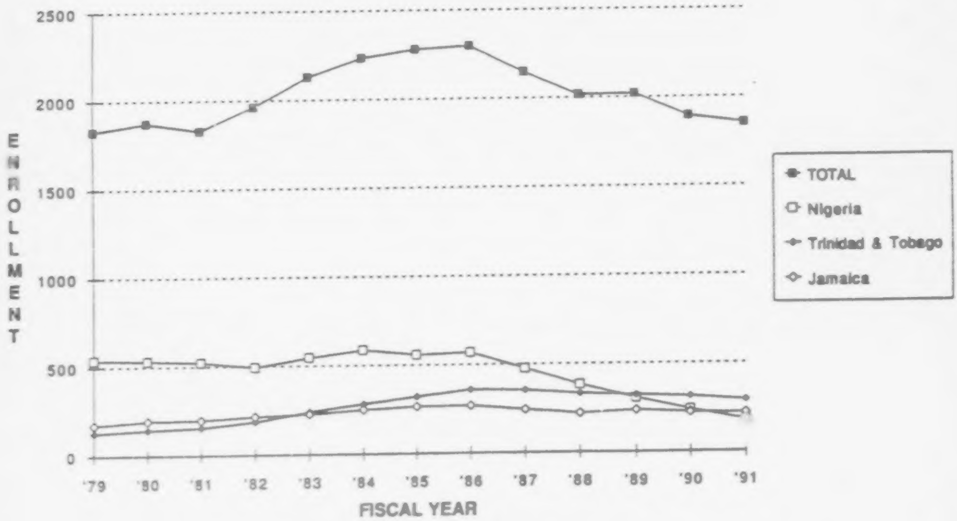
The Department of Education's prediction that the University will realize an additional $5.5 million in revenue assumes a "stabilized" enrollment of foreign students. So far, however, enrollment has declined and the net loss in foreign student tuition dollars is $70,622.

The University's analysis suggests that the decline in foreign student enrollment prior to imposition of the tuition surcharge was the result of currency devaluation in Nigeria, Trinidad and Tobago, and Jamaica. In addition, a decline in revenues from the export of oil caused the Nigerian government to cut back on scholarships for study abroad. (See attached chart.)

The University does not challenge the fact that American taxpayers subsidize foreign students who study in the United States, but that subsidy is seen as an investment. To the extent that those students later become American citizens, they become taxpayers and the benefits of their education accrue to our Nation's economy. To the extent that they return home and build strong economies, they help to satisfy our Nation's foreign policy objectives.

In summary, it is the University's carefully developed conclusion that "cost" is the principal reason for the decline in the enrollment of foreign students at Howard University. Increased costs, currency devaluation, and diminished scholarships in their home nations have increased the price of a Howard education for foreign students. Increasing numbers of foreign students are choosing not to come to Howard University not because they do not want to and not because of other factors, but primarily because they cannot afford to do so. When fully implemented, the surcharge will increase the cost of a Howard education for foreign students by 50 percent. Anything that makes education at Howard more expensive will cause more and more students not to come here. Moreover, any net revenue increases realized for the University must be juxtaposed against the damage done to the strategic objectives of our Nation. The University would therefore like Congress to consider revoking the requirement to impose a tuition surcharge for foreign students.

ENROLLMENT OF INTERNATIONAL STUDENTS



## CONSTRUCTION REQUEST

Senator HARKIN. We will, I guarantee you, revisit that issue this year and see what changes might possibly be made on that.

Dr. JORDAN. I have a couple of questions, but the first one has to do with the construction.

We provided that $2.4 million for fiscal year 1991 as the first of four installments for the $15 million renovation and expansion of Hall Memorial building. The Department, because of delays in the beginning of construction has recommended funding for this project at a level of only $1 million next year instead of the $2.5 million as originally planned.

Could you tell us what the source of the delay was in the beginning of construction. Second, what would be the impact on the project of a delay in this funding?

Dr. **Jordan**. Yes, sir; I would be happy to respond to that. I will begin my response by saying that the original agreement with the Department of Education was not a 4-year plan, but a 3-year plan.

Senator **Harkin**. Three-year plan.

Dr. **Jordan**. Originally, the agreement was that the Department of Education would recommend an appropriation of $2.5 million a year for 3 years. Note that last year we received a little over $2.4 million, not $2.5 million, although the markup included $2.5 million. There still is a $60,000 difference between those numbers. You can buy a lot of classroom chairs for $60,000.

However, the significant difference here is the difference between the $2.5 million that was in the original plan for fiscal year 1992 and the Department's recommendation for $1 million in the budget request.

The second part of my response, I think the most important part, is that there has not been a significant delay in construction. The original plan called for construction to begin in January 1991. The recommendation was made by the architect that we could be ready to begin construction in January 1991.

After some reflection, we realized it did not make a lot of sense to begin a major construction project on the main classroom building on campus at the beginning of a new semester. Therefore, we moved the beginning of construction to May. That is immediately after commencement and immediately after classes finish for this semester, that construction will begin. So, there has really not been any delay.

The construction will take place in three phases. First, is the new construction which is an addition of about 55,000 square feet of space. It includes the addition of a fourth floor on the building and a closing between two wings.

New construction will be followed in the next 2 years by renovation of the existing structure. It is very important to note, sir, that new construction costs about twice the per square foot charge of renovation. With respect to our costs and responsibilities for paying for the building, the majority of the cost will come up front.

The new construction costs will be about $7.4 million. That will come due in the summer of 1992. So, we will actually need all that $7.4 million at that time. The Department of Education had agreed to recommend $5 million by this point. Now, they are recommending $3.5 million. That is a significant difference.

Senator **Harkin**. Tell me again. You will need the whole $7.5 million by next May?

Dr. **Jordan**. We expect that the new construction will be finished during the summer of 1992. So, I will not say May. I would say anytime between May and August, but during fiscal year 1992.

Senator **Harkin**. In fiscal year 1992.

Dr. **Jordan**. Yes, sir.

### CONSTRUCTION REQUEST

Senator **Harkin**. What we are discussing here is basically if that is the case we have to do something about it during this appropriations cycle. That is an additional $5 million dollars that we have to look at here.

Tell me about the matching funds. I understand that there is an agreement that Gallaudet will match.

Dr. **Jordan**. The original plan was made in order that the construction will take place. We knew that OMB had been very reluctant to provide any new construction money for special institutions in the recent past. We wanted, needed, had to have this construction take place.

So, we sat down and worked out a plan whereby we would do a $15 million project and requested from the Department of Education support for half with the understanding that we would come up with the other half.

Our primary method for getting the other half will be fund raising. We are right now in phase II of a three-phase special project to raise the funds for that. That is much easier said than done. We are not an institution that has a history of cultivating or raising seven-figure gifts from individual donors or corporations or foundations.

I am spending a lot of my time right now cultivating that kind of individual so that we can seek the leadership gifts that will result in a successful campaign to raise that much money. In the event that we do not succeed in raising that much money, there are two other options.

One is to reallocate some of the deferred maintenance funds that we already put aside for things like heating, ventilation, air-conditioning for that building, and new windows for that building. There are many areas where we have recognized problems and deficits in the building itself and have already put aside money to remedy them.

Finally, if need be, we will incur debt, but we will match that $7.5 million.

### COMPENSATION LEVELS

Senator **Harkin**. Dr. Jordan, your highest funding priority has been to maintain a competitive compensation system. Since you have been president, the average annual increase in faculty pay has been 11 percent. I ask you to get for us some comparative figures.

Is Gallaudet up to parity with other local universities in this area?

Dr. **Jordan**. Gallaudet still lags behind other area universities in compensation for faculty, for staff, for precollege teachers and for university administrators. This occurs because it is a very competitive market. The people who are good are very, very good. They are well compensated. They deserve good compensation.

You noticed, for example, that we averaged an 11-percent increase for faculty over the last few years. During that same time, the appropriation has increased at an average of about 2.5 percent in total for operations.

When I first became president, I made a very public commitment here and on campus that compensation would be my highest priority. It has been. I have made many, many sacrifices inside the university to reallocate money, moving it from areas where it used to be into compensation. I have done that very consciously. I knew that when I did it, I would be reducing budget flexibility. Now, frankly, I have reached a point where my budget flexibility is just about gone.

The way we were able to award 11.5 percent increases while receiving only 2.5 percent in total Federal funding for operations, those days are gone. The flexibility that was part of our budget is no longer there. The flexibility that was carefully designed into the budget is gone. So, flat funding may lead to our falling further behind area universities.

## AVERAGE FACULTY SALARIES

Senator **Harkin**. I have here the averages of the universities in this area. The average for professors is $65,800. Gallaudet's is $58,800. I might point out that Howard's is $55,700.

Dr. **Jenifer**. Correct.

Senator **Harkin**. For associate professors the average is $47,000. Gallaudet is $43,900. Howard's is $40,700. The average for assistant professors is $38,400. Gallaudet's is $36,700. Howard's is $33,400. For instructors the average is $29,900. Gallaudet's is $29,400. Howard's is $30,200. For both of the universities that are here, Howard and Gallaudet, your averages for professors, associates, and assistants are way, way below the average in this area.

I address this to both of you. Have you, in your request for appropriations factored in increases to try to bring these averages up? Do we have that before us?

Dr. **Jordan**. In our budget request to the Department of Education, we asked for $2 million for compensation with the understanding that we would find an additional $1 million from increases in nonappropriated revenue to award an average increase of about 5 percent.

That budget submission was made, you will recognize, before we knew what our appropriation would be for fiscal year 1991. One of the difficulties with the Federal appropriation process is that this year, for example, I will have to develop my fiscal year 1993 request before I know what my fiscal year 1992 appropriation will be. That happens each year. It makes for very difficult planning.

Last year we asked for enough money to award a 5-percent increase. That would have cost the institution about $3.2 million. Now, for me to even think about keeping up, I would need to award a 6-percent increase.

If you look at the performance of the university in compensation increases awarded during the last several years, I think I could use the word aggressive. I have been very aggressive in awarding compensation increases. Still, they lag behind because the other area institutions are even more aggressive. It is a very difficult situation that would be made much more difficult with flat funding.

## FACULTY/STAFF SALARY INCREASES

Dr. **Jenifer**. Senator, we did recommend an increase to the Department of Education. That increase was to give us a 6-percent increase. The cost of that would have been $12.8 million for this year.

Now, our salaries are the second lowest of the six institutions in the Washington area. Senator, I cannot tell you how important that is. I mentioned that we have the largest contingent of African American scholars in the world. Most colleges and universities in this area are very aggressive to increase the diversity of their faculty.

So, Howard University's faculty looks like a plum pie sitting over there on Georgia Avenue that everybody is trying to raid. My salaries are eroding at a very rapid pace. I am going to try to have a small increase in the budget for the salaries, but I will have to take it out of current operations or give it very late in the year because I will not have enough money to give it this year.

It will cost me about $12.8 million to annualize salaries in the next fiscal year. That is the dollar figure. I do not want to say crisis, because sometimes we overstate that word, but that is essentially where we are.

Senator **HARKIN**. But you submitted that to the Department of Education?

Dr. **JENIFER**. Yes, I did.

Senator **HARKIN**. It was about $12.8 million, right?

Dr. **JENIFER**. It was about $12.8 million for the increase.

Senator **HARKIN**. We will take a look at that. I want to see what your request was. But obviously, it is something that you really have to pay attention to in both of your cases.

### FOREIGN STUDENTS

Senator **HARKIN**. Let me ask you now about foreign students at Gallaudet. I covered that with Dr. Jenifer.

I understand about 13 percent of total enrollment is foreign students. The Department is arguing that among other things we are discouraging the development of higher educational opportunities in foreign countries by helping foreign governments avoid the responsibility for educating their deaf citizens.

The Department supports the adoption of a surcharge for foreign students equal to the average out-of-State tuition assessed by public universities. That is in-State charges plus 135 percent.

Gallaudet presently charges foreign students 50 percent more than U.S. students. This arrangement, I understand with the Department is due to expire this year and Gallaudet will have to meet with Department officials to discuss future surcharges.

Could you address yourself to this issue about surcharges on foreign students. What, if any, surcharge you believe would be fair or do you think that perhaps this is something that we have to look at in the light that Dr. Jenifer talked about?

Dr. **JORDAN**. I will be meeting with the Department of Education to discuss tuition. The tuition rate that was established in cooperation with the Department of Education was for a 3-year period and will end this year. So, we will be meeting to discuss this.

Regarding the surcharge for international students, the 50-percent surcharge appeared this year. It makes a significant difference in the amount of money that the international students have to pay.

I sat and listened with interest to Dr. Jenifer's discussion, especially about Nigeria. If you will bear with me, I would like to share with you some comments specifically about Nigeria because we, too, have a large number of students who come to Gallaudet from Nigeria.

I would be willing to bet that if we go to the University of Jos or the University of Ibaden, you would find a small group of Gallaudet alumni who also would have a club and a meeting place and who also would think that Gallaudet is one of the best universities in the world.

About 25 years ago, one of the black graduates of Gallaudet University became a missionary and went to Nigeria. When he got there, he found that there was no educational program for deaf children in the entire country. So, he established a school, the first school for the deaf in all of Nigeria. That drew some students achieving at a high enough level that they could come to Gallaudet University, study, earn their degrees, then go back to Nigeria and establish different schools. Now, there are more than 20 schools for the deaf in the country of Nigeria.

I would guess, and I do not have this number, but could get it for the record but I would guess, that we have 30 or more students at Gallaudet who come from Nigeria. We have them from other African countries and other Third World countries as well. They too are not the sons and daughters of princes and kings.

It is very important to remember, when you said that we are discouraging people from establishing their own higher education program, that Gallaudet is still the world's only liberal arts university specifically designed to offer the broadest education to deaf people.

We cannot imagine a very small country having enough deaf people to see a need to establish a program like that. But we welcome students. We have students from more than 50 different countries at Gallaudet now.

The diversity that they bring to the university and the rich education they take back to their countries, I think is a very, very good investment.

Senator HARKIN. Very good. Thank you very much, Dr. Jordan.

Dr. JORDAN. Thank you, sir.

Senator HARKIN. Dr. Castle, again welcome.

### BUDGET REQUEST FOR NTID

Again, I will ask you basically the same question I have asked Dr. Jordan and Dr. Jenifer. You have gotten level funding basically.

Dr. CASTLE. Yes.

Senator HARKIN. What would be the impact on NTID if we just go ahead with that?

Dr. CASTLE. We would find it very difficult to live with level funding, sir, for many reasons.

As you remember, we brought to your attention the problem of repetitive motion injury which our interpreters have borne for quite some time. We continue to have that problem, and we would estimate that NTID would need an additional $1 million to deal with that problem specifically in fiscal year 1992.

I pointed out in my opening statement that we have been lagging behind in terms of equipment purchases for 3 years in a row. We will do the same in fiscal year 1992 if we have to live with level funding. We expect that we need at least $1 million to purchase very high tech equipment to keep ourselves up-to-date on where our students ought to be when they are educated at NTID.

We recognize that with the passage of the Americans With Disabilities Act, there are certain factors that we have to deal with regarding the act and its requirements. We would expect that we would need $200,000 to do such things as putting in automatic doors for staff and students who are in wheelchairs, putting strobe lights in offices where deaf people work, and modifying bathrooms for the physically impaired.

We have initiated a strategic planning process which we believe will need an additional $300,000 to pursue. We need a market adjustment because the host institution, RIT, has projected an average salary increment for its staff for fiscal year 1992 equal to 5.75 percent. We can find other ways and means to help to cover that, but we specifically feel that we need at least $1.5 million to help us out with that process.

We also believe that we need an additional $150,000 to continue to undertake the aggressive affirmative action activity that we have been pursuing for the past 5 years.

Fully, we would expect that we need something like $3 million more than what has been put into the President's request in order to deal with the operations of NTID in the way that we should during fiscal year 1992.

### REPETITIVE MOTION INJURY AT NTID

Senator HARKIN. Again, this subcommittee is very interested in the program to combat repetitive motion injuries. The President's request maintains a $600,000, but NTID requested $1 million, a little over $1 million. The NTID requested $1 million.

The Department maintains that $600,000 is sufficient to cover the hiring of additional interpreters. They said that this is national in scope, affects a wide variety of workers whose activities involve intensive long-term use of the hands.

I understand that with the 15 new interpreters, you now have a total of 75. Is that correct, Bill?

Dr. CASTLE. Yes.

Senator HARKIN. How many additional interpreters do you think you need to address this problem?

Dr. CASTLE. Before I answer your last question I would like to put it into context.

We really appreciate what your committee did last year in adding in final analysis an amount of $800,000 to the President's request for the repetitive motion injury problem.

As you will recall, that $800,000 was reduced in the first phase of conferencing to $600,000. Then, with the additional 2.4 percent across the board cut, the rest of the $600,000 was virtually swept away.

We had to find a way, however, during fiscal year 1991 to take care of this particular problem. So, we had to reduce part of the rest of our operation's budget in order to find the $600,000 needed to take care of this problem.

There is truly no carryover of an extra $600,000 into fiscal year 1992. The million dollars that we requested of the Department to put into the budget was an additional need that we had for fiscal year 1992. That need still stands. We would hope that your committee would move to put $1 million additional into the appropriation for NTID to continue to deal with this problem.

In terms of adding five additional interpreters for the coming year, that is the final component of our plan for helping to deal with the RMI problem. One of 15 strategies, and by the way, if you would like, I will submit for the record the 15 different strategies that we have utilized to deal with this problem. One of the strategies has been to add to the number of full-time interpreters.

We planned to add 15 new interpreters this year. We have only added 8 out of the 15. We are continuing to look for additional numbers for this particular year. In the coming year, fiscal year 1992, we would hope to add an additional five. So, from this point on, we are looking for 12 additional interpreters to add to our full-time staff toward alleviation of this problem.

Part of the $1 million, of course, for the coming year would be the compensation that is required to pay these additional interpreters.

## REPETITIVE MOTION INJURIES AND GALLAUDET UNIVERSITY

Senator **HARKIN**. Now, we are hearing a lot from NTID on repetitive motion injuries [RMI]. Dr. Jordan, is this something that you have looked at at Gallaudet? I have not really heard from you on this issue. I just wonder if this is something that you have looked at at the university?

Dr. **JORDAN**. RMI is a problem that occurs with interpreters. It is a very serious problem. The difference between NTID and Gallaudet related to RMI is that Gallaudet does not have many staff interpreters. We contract for most of our interpreting services. The university itself is made up of people who can sign and communicate.

Most of the time, we do not need interpreters in classroom settings. You will remember that NTID is located at RIT and therefore they have to have interpreters accompany students if they take classes at RIT. The issue of interpreting is really a growing concern simply because of the cost of providing interpreting services, especially as more and more deaf people occupy positions of responsibility or leadership and have to go to meetings and workshops off campus. It is a significant cost. However, we have been working with NTID to address the RMI problem.

Senator **HARKIN**. I understand it better now.

Dr. **CASTLE**. As Dr. Jordan has pointed out, essentially the teaching that occurs at Gallaudet is almost universally direct teaching methodology.

For 260 of our students who are cross registered full-time into another college of RIT, we must provide interpreting services. That involves a support service model inclusive of interpreting, note taking, tutoring, and special academic advisement.

In addition to the 260 deaf students who are cross-registered full-time, we have another 50 percent of our remaining students who are taking some of their courses in the other colleges of RIT. Therefore, the interpreting manpower for NTID is very, very heavy.

### STUDENT RETENTION

Senator **Harkin**. Are you concerned at all with the retention rate? My staff tells me NTID has a retention rate of 52 percent. How does this compare with other institutions? Is this something that we ought to be concerned about?

Dr. **Castle**. I think probably not, Mr. Chairman. A 52-percent rate is really better than the average retention of colleges and universities across the country. But if you compare NTID with other postsecondary programs for the deaf, of which there are close to 150 today, ours is 52 percent retention and the average retention of the others is 30 percent.

When you compare NTID to community colleges all over the country that have open admissions policies, you will find the same kind of comparison, 52 percent retention for NTID, 30 percent on the average for community colleges.

There is another factor here that ought to be pointed out and that is for the 260 deaf students that are in the other RIT colleges pursuing baccalaureate and masters degree programs, our history shows that the students who come to RIT sponsored by NTID to pursue baccalaureate and master's degree programs have a retention rate of 74 percent. That compares to a 50-percent retention rate for the hearing students on the campus of RIT.

### INTERNATIONAL STUDENTS

Senator **Harkin**. I do have some questions that I will be submitting to you also and to others to be answered in writing. The last one I wanted again to cover with you, Bill, was the international students.

Dr. **Castle**. Oh yes.

Senator **Harkin**. You just started there, right?

Dr. **Castle**. Our experience with international students has just been for this year. We did not get into the business of letting people know about the change until November 1989. The number of international deaf students at NTID this year is only 17; 15 are from Canada, 1 is from Japan, and 1 is from Australia.

This number is so small that we really cannot give you a very good judgment on whether or not a higher surcharge ought to be charged. I think the number is sufficiently small that, at this level, the amount of subsidization that is occurring is virtually zero because the marginal cost for adding 17 students to a total number of 1,100 really is virtually nothing.

If the number grew and became 200 or more, as it is at Gallaudet, then the subsidization factor would become much more of a concern. Today, it is not a major concern and should not be of concern to Congress. As we have more experience in the future, we can answer the question in a different way, I am sure.

I would like to end my response by saying, however, that many of the individuals who are looking to come to NTID in the coming year are from developing countries. We may actually have to turn most of them away because they have no way to pay the $5,000 tuition plus fees that we will charge a foreign deaf student in 1992. They cannot even pay what is required let alone deal with a surcharge.

Senator HARKIN. That is for 1 year?

Dr. CASTLE. That is for 1 year, yes.

Senator HARKIN. You are saying that you have applications from students?

Dr. CASTLE. We have not yet accepted these students, but we have seven applications from Nigeria. We have more applications from other Third World countries or developing countries. Most of these young people are saying, in order for us to come to your institution, we need a scholarship. However, we do not provide any scholarship moneys for these students.

If they need us to pay their way through scholarships, we will have to find a way to do that one day by raising private dollars, I am sure. But if their current situation is that they cannot pay what we now require, how could they pay the 135-percent surcharge that is being recommended by the Department of Education? Pretty tough, I would say.

Senator HARKIN. Thank you very much, Bill.

Dr. CASTLE. You are welcome. I would like to say to you that I am very sorry that you are not able to accept our invitation to visit NTID in the month of May this year, but we hope we will be able to work something out later on in the coming year.

Senator HARKIN. I am going to get up there sometime this year.

Dr. CASTLE. We will work together on that.

Senator HARKIN. I will get up there. I just could not do it in May.

Dr. CASTLE. Thank you very much.

### BUDGET REQUEST FOR THE AMERICAN PRINTING HOUSE

Senator HARKIN. I am going to make it a point sometime this year to get there.

Dr. Tinsley, again welcome. Your request is $6.1 million level funding. We know all about the printing house and all the good work you do. Again, I just wanted to cover your budget here.

The administration's budget would provide $111.89 per student for a projected 49,860 students served by the printing house. That is down 4.4 percent from last year's per student allotment. It is down 15 percent from a decade ago. Then you factor in inflation and you are looking at a significant drop.

If you are forced to take this cut, what do you eliminate? What would students do without next year? Tell us what your request was to the Department of Education.

Dr. TINSLEY. Mr. Chairman, our request was $7,233,000. The Department's budget is $1,097,000 below that. With level funding, the greatest impact is going to be on access to materials for the country's visually impaired students.

As you mentioned, in the past decade the amount per student has declined by 15 percent. While the population served has increased by 43 percent, the appropriation has increased by only 24 percent. Therefore, the per capita has decreased by 15 percent from a high of $131.87 in 1981.

As you mentioned, this impact is compounded by inflation. It would take approximately $200 today to purchase what $131 purchased in 1981. So, the actual buying power of the appropriation if level funded, would be 56 percent of what it was in 1981.

Senator **Harkin**. It is now at 56 percent of the 1981 level.

Dr. **Tinsley**. As far as buying power; yes, sir.

Regarding cutting materials, there would just be fewer materials that could be purchased through the appropriation.

Senator **Harkin**. Let me ask you this. If I were to tell the average person on the street that the funding for the American Printing House for the Blind that provides all of this material is 56 percent of what it was a decade ago, might one of those responses be, yes, but we have opened more doors to the disabled. Blind people are making more money. They can afford a little bit more now than they could 10 years ago. What would be your response to that?

Dr. **Tinsley**. The appropriation is for educational programs below the college level. The service providers are the ones who order the materials for the students.

So, no matter how much money the students or their parents have, the amount of funds available through the appropriation for the chief State school officers, the heads of the residential schools, and the heads of the instructional material centers to purchase educational materials would be fixed at $112.14 per student. Therefore, the Federal funds which they could use to purchase these materials would be less, definitely less.

Senator **Harkin**. OK. Let me try it again.

Dr. **Tinsley**. OK.

Senator **Harkin**. If I go to these people who make the request to you; obviously, you cannot get them as much materials as what you did a decade ago, in real buying power.

Dr. **Tinsley**. Right.

Senator **Harkin**. Who is making up the difference? Is anyone making up the difference?

Dr. **Tinsley**. It would fall upon the States and the local school districts to make up that difference as required by the Individuals with Disabilities Education Act. However, I am not saying that they are.

Senator **Harkin**. That is my question. Are they?

Dr. **Tinsley**. I do not have data in front of me to show whether they are making the difference up. I know that we continually have requests from States, they support the act, and have expressed concern over the decrease in Federal funds for us to produce free materials.

Senator **Harkin**. I am sorry. Say that again, Dr. Tinsley.

Dr. **Tinsley**. If the funds through the act were not available, then the full continuum of services we provide from the identification of needs to the delivery of materials and research would be affected. The $391,000 requested for the research function supports the identification of needs, analysis of needs, prototype development of materials, the field testing of materials, and the development of educational materials.

If someone had $1 billion to purchase materials for a Third World country, the Federal funding for identification of needs, development of materials, and their dissemination would not exist. Therefore, the materials would not be available for purchase.

The strength of the Federal program at the American Printing House for the Blind is that with fragmented services and so few students around the country and in different places, we can bring together the service providers, identify the needs, and pitch together to prioritize the areas for which materials are developed.

The 160 ex officio trustees representing all 50 States, the U.S. territories and possessions come together annually. We have five standing advisory committees, two being our major advisory committees. One is the publications committee which recommends books to be published. The other is the research committee which identifies the areas we focus on in the research and development of materials.

Since I have been at the printing house, and this is the beginning of my third year, our four major priorities have not changed. These are the research and development of materials for early childhood education, materials for multihandicapped students, technological materials, and materials for braille reading and writing.

### EARLY EDUCATION MATERIALS FOR BLIND CHILDREN

Senator HARKIN. One area of deep concern to me is early childhood intervention programs for disabled children. I understand the number of requests to you over the last several years, maybe the last decade, I forget how many years it was, has gone up tremendously for teaching materials for severally disabled children.

Now, because of advances in technology and medical care, a lot of these children are surviving, but they have multiple disabilities. We have obviously found that the earlier you get to these children with early intervention programs, both health and education, the better able they are to cope later in life.

The request to you for these materials has increased substantially, has it not.

Dr. TINSLEY. Yes, sir; it has.

Senator HARKIN. How are you meeting this growing demand. I assume you foresee it increasing.

Dr. TINSLEY. Yes, sir; we certainly do.

The major impacts of Public Law 99-457 have been a dramatic increase of the number of early childhood students registered and increased demand for a wide range of materials.

There are some similarities in the materials used in early childhood programs and those for developmentally delayed children, but there are some definite differences too.

Our advisory committees have continued to stress the need for early childhood materials as a major priority. The greatest demand is for materials that can be used with these children in their homes with their parents. Therefore, materials that can be used within their homes have been a major focus.

In 1980, 1,314 kindergarten students were registered for the Federal program, but none below that level. In 1990, we had 9,248 children in our early childhood programs. Just since 1986, in the infant to preschool area, from birth to 5, we have had an increase of 44 percent.

The ex officio trustees from all States and the advisory committees have asked us to focus on this population. We have had 170 service providers this past year, including trustees and teachers in the field, involved in field testing materials and identifying needs.

There are six major projects that we are currently working on in early childhood. One is called developing literacy which is a program that will provide parents and teachers of young visually impaired children with materials necessary to interact with the environment. We have developed 10 tactile/visual books and a parent or teacher guidebook related to this project to enable these children to begin using symbols to read and write.

The infant skills project is another project. This is for children birth to 24 months of age. We are developing tangible child use materials targeted for this group of infants and toddlers with accompanying written materials to help develop critical skills in these children.

A step above that, for children ages 3 to 5, we have a preschool learning activities project. The purpose of this project is to develop an instructional manual of learning activities appropriate for blind and visually impaired preschoolers in this age range. This program includes activities for a continuum of sensory skills such as pouring, squeezing, ordering, and categorizing.

The parent early childhood education series is a program developed at the Overbrook School for the Blind which has been field tested and is being revised. This program includes a set of written materials useful in developing critical skills in young visually impaired children. These include intervention skills; the tactile stimulation activities such as positioning and movement; parent-child interaction; and listening skills.

This program is an example of our ongoing involvement with professionals in the field. We do not want to reinvent the wheel. This was a program that was used successfully in one school. We have brought it in, field tested it, and have brought committees together to revise the materials.

Another example of this procedure is the parents and visually impaired infants project [PAVII]. This was a federally funded program developed by the Blind Babies Foundation in California. It focuses on intervention techniques for use with very young children. We have taken those materials, revised them, worked with the authors of the materials, and have improved them a great deal. The materials are divided into six sections. These are very helpful to parents who do not have the expertise in working with young visually impaired infants and are confronted with a child with a visually impairment.

The project includes a section on parent assessment of needs, a parent observation protocol so parents can see where their children are developmentally, and papers on assessing young visually impaired children, the art of home visiting, which provides information for professionals who interact with parents in the home, a section on getting ready for school, and one on learning together which is a socially based curriculum for infants and toddlers.

Senator **Harkin**. Sounds like you are well into this. But you are going to have more demands on you on that; much more.

Dr. **Tinsley**. I'm sure we will.

Senator **Harkin**. You have to really pay attention to that in terms of your funding. I am wondering if the Department looked at that. We have to check with the Department to see if they even looked at that aspect of it. Obviously, they cannot be involved in their budget request.

Again, I have nothing else. I want to thank you all for being here. I individually want to thank each of you for the fine job you are doing. I look forward to working with you as we prepare our budget for next year.

You have given me some ideas and some things to think about. I will be in touch with you, you person on the staff level to talk about some different perhaps changes or modifications of some of these programs in the coming year.

So again, thank you very much for being here.

### AMERICANS WITH DISABILITIES ACT

Dr. **Tinsley**. APH has produced free for every blind person in the country who requested it, a braille edition of the Americans With Disabilities Act, a recorded edition, and a large type edition.

I have a special hard bound copy that I would like to present to you, sir.

Senator **Harkin**. I appreciate that. I did not know you did that. Is this the ADA in here?

Dr. **Tinsley**. Yes, sir.

Senator **Harkin**. In braille?

Dr. **Tinsley**. Yes, sir.

Senator **Harkin**. Look at that.

Dr. **Tinsley**. King Jordan, last year, presented you with the Annual from Gallaudet, so I figured I ought to present you with something.

Dr. **Jordan**. This year's gift from Gallaudet to Senator Harkin is an honorary doctoral degree he will receive on the 10th of May. Top that, Tinsley. [Laughter.]

Senator **Harkin**. That is pretty remarkable. Now, when the regulations come out, you will have to do the same thing with regulations.

Dr. **Tinsley**. That is right.

### QUESTIONS SUBMITTED BY THE SUBCOMMITTEE

Senator **Harkin**. There will be some additional questions which we will submit to you for your response.

[The following questions were not asked at the hearing, but were submitted to the Department for response subsequent to the hearing:]

# HOWARD UNIVERSITY

## QUESTIONS SUBMITTED BY THE SUBCOMMITTEE

### HOWARD COMMISSION

Question: The Howard University Commission recently issued a comprehensive evaluation report on the University. Based on that report, you have made recommendations for sweeping reform, and I understand that on March 2nd, the Board of Trustees unanimously, though not officially yet, endorsed those recommendations. Please summarize for the Committee your recommendations made in the Howard 2000 plan.

Answer: The principal recommendations for the Howard 2000 plan follow:

- Raise admissions standards; develop the Howard University Index (HUI); and require each school or college to show annual improvement in the average HUI "score" for its entering class.
- Close the School of Human Ecology; transfer existing programs to other schools and colleges; and eliminate core courses in Human Ecology.
- Eliminate the undergraduate major in teacher education; and develop a 1-year masters degree program in Education for liberal arts graduates and a program to teach essential skills necessary for elementary teacher certification in most States.
- Eliminate the Department of Geology and Geography.
- Eliminate the Bachelor of Social Work degree program.
- Eliminate the B.S. degree program and the Ph.D. program in Pharmacy.
- Eliminate the graduate programs in Adult Education, Education Technology, and Student Personnel in Higher Education.
- Eliminate the Physician Assistant Program.
- Eliminate the major in Astrophysics.
- Eliminate the concentration in Art Education.
- Consolidate the Departments of Botany/Microbiology and Zoology to form a single Department of Biology.
- Restructure graduate education; determine which graduate programs should be maintained, downsized, merged, or eliminated; and concentrate on having fewer graduate disciplines and fewer specializations within departments.

- Restructure the College of Liberal Arts to establish a new College of Arts and Sciences.
- Evaluate performance of the School of Continuing Education relative to its 10-year strategy, and initiate (and advertise) credit-bearing courses.
- Evaluate the effectiveness of academic support services.
- Develop uniform criteria for evaluating faculty being considered for appointment, promotion, and tenure.
- Create two university centers -- one for international affairs and one for urban affairs.
- Establish two new institutes -- Entrepreneurial Studies in the School of Business and Islamic Studies in the School of Divinity -- and activate the Institute for Health Policy Research.
- Initiate planning for two new classroom and research buildings.
- Create a new governance structure for involving faculty in advisory and consultative roles to the administration and the Board of Trustees.
- Establish a University-wide faculty development program.
- Develop a strategic plan for University Libraries.
- Develop a plan to decentralize authority and allow greater managerial flexibility.

Question: When will the Board of Trustees officially approve your plan?

Answer: The plan will be considered for approval at the April 1991 Board of Trustees meeting.

Question: When will a timetable for implementing the recommendations be available?

Answer: The implementation timetable will be available in July 1991.

## COST ESTIMATES FOR HOWARD 2000

Question: How and when will cost estimates be prepared?

Answer: Cost estimates will be prepared by the Offices of the Vice Presidents for Academic Affairs and Health Affairs and the Dean of each school or college that is affected by the principal recommendations in Howard 2000. The cost development effort will be coordinated by the Vice President for Business and Fiscal Affairs. Where appropriate, independent consultants will be engaged to assist in developing the cost estimates. The cost development effort will be completed by the fall of 1991.

## HOWARD UNIVERSITY INDEX

Question: The number one priority identified by the Howard Commission is raising admission standards. They initially recommended a minimum SAT score of 1000 for incoming freshmen. Your plan doesn't call for a minimum; it simply calls for annual improvement. How will you raise standards under your new approach?

Answer: While there is considerable support for raising Howard's admissions standards gradually over a period of years, concerns have been expressed in many quarters about the inherent inadequacy of the Scholastic Aptitude Test (SAT) as a predictor of student performance in college-level work, especially for those African-American students who could benefit from higher education but do not perform well on standardized tests. Other factors are equally important and need to be taken into consideration as well. These include evidence of critical thinking ability; problem-solving and writing skills; well-developed study habits; and exceptional talent, ability, motivation, or academic achievement (e.g., significant improvement during the last 2 years of high school), among others. Unfortunately, however, no existing standardized test is broad or sophisticated enough to capture these important factors, so they must be taken into consideration in some other way.

Howard, then, should develop its own eligibility index -- the Howard University Index -- as a tool for selecting the best candidates for admission. It should do so not in the name of elitism, but in the name of excellence.

The Howard University Index (HUI) would start with high school grade point average (GPA), class rank, followed by the SAT score. (Applicants from other nations would be exempt from the requirement to submit SAT scores.) Reordering the components in this way will send a clear message to students that prior academic performance (as measured by GPA and class rank) is the single most important indicator for determining eligibility for admission. Under no circumstances, however, should the average HUI score for an entering class of a college or school be lower than it was for the fall 1990 freshman class (the base year). More importantly, each school or college should demonstrate an annual increase in the average HUI score of its freshman class.

In addition, each entering student should not only have met the University's admissions standards as reflected in the Howard University Index, but also should have completed college preparatory courses in areas such as writing, laboratory science, advanced mathematics, foreign language, history and other social sciences, and electives.

## AVERAGE SAT SCORES AT HOWARD

Question: What was the average SAT score for freshmen who entered Howard last September?

Answer: The mean SAT score was 879 in September 1990.

Question: What should we expect those scores to be like next year and 5 years from now?

Answer: The University does not anticipate a significant increase in the SAT scores of its freshman class in 1992. By 1996, SAT scores are expected to have increased close to a mean score of 1000.

## PRESIDENT'S STUDENT AID PROPOSALS

Question: Dr. Jenifer, I'm curious about your views on one of the President's recommendations for student financial aid. I read somewhere that you graduated from high school second from the bottom of your class. The Department is proposing to cut off the bottom ranked 10 percent of students from financial assistance. Now I don't know whether that means the bottom 10 percent of high school students -- we haven't seen the details -- but I'd like to know what someone like you, someone who has been at the bottom of his class and risen to become a university president, thinks of a proposal like this. Do you think it's a good idea?

Answer: I believe strongly that the awarding of financial aid should be based solely on an informed judgment that the applicant can complete the course. In the latter regard, I am convinced that schools and colleges should make decisions regarding admission. I contend that the history of financial aid at some proprietary schools shows that these institutions often accept students for admission primarily to receive the financial aid payment without regard for the probability that the student will complete the course work successfully. Thus, the failing student often ends up overburdened with a requirement to repay a loan and no viable means with which to do so.

The Department of Education should not be the judge of who should attend college. That decision must continue to rest exclusively with the postsecondary institutions. The principal criteria for admission to postsecondary institutions and the financial aid award should be (1) the potential of the student to benefit successfully from the collegiate experience and (2) the student's financial need.

We professional educators and administrators need to be concerned, otherwise, we write off students solely because they score poorly on tests. I feel especially strongly about this point in light of the findings of recent research regarding the predictability of student success in college work, which established a correlation between poverty and low standardized test scores.

## DEFERRED MAINTENANCE

Question: Howard engaged a consulting firm to assess deferred maintenance needs accumulated over the past 2 decades. The study identified needs totaling $145 million, of which $80 million was of an emergency nature. How are you addressing these deferred maintenance needs?

Answer: Deferred maintenance needs are addressed on a priority basis, to the extent possible, using operating and routine maintenance funds. Because these funds are limited, most of the University's deferred maintenance needs cannot be addressed. Additional Federal support is urgently required to eliminate the backlog of deferred maintenance.

Question: What did the Howard University Commission determine is Howard's most critical facility construction or renovation need?

Answer: The Howard University Commission (HUC) focused on the academic and research missions of the University in the 21st Century. Critical construction or renovation needs, as derived from the recommendations of the HUC Preliminary Report, are to be identified and addressed.

## ACCREDITATION DEFICIENCIES

Question: Last year, Dr. Alexis reported that Howard's most critical need was construction of a new building for the School of Law. The University had been cited for deficiencies by the American Bar Association. What are you doing to ensure that the School of Law remains open?

Answer: The American Association of Law Schools (AALS) had informed the University that construction of a new building for the Law School would be required to retain accreditation. Subsequently, the AALS revised its position and now states that renovations to the existing building would be satisfactory. A permanent dean was appointed in November 1990. Additional financial aid has been provided for students. Funds and equipment have been provided to enhance faculty research productivity. The American Bar Association and the AALS have stated that the School of Law is making satisfactory progress. It is improbable that accreditation will be withdrawn or that the School of Law will be closed.

## ACCREDITATION

Question: Is Howard experiencing any other accreditation problems?

Answer: In the Health Affairs (Sciences) Division, all academic programs are fully accredited. However, on-site visits by accrediting bodies have resulted in recommendations addressing identified issues that must be corrected for continued accreditation.

The recommendations are:

A. College of Dentistry

1. Faculty salaries should be improved to assure a competitive position for the college to recruit and retain qualified faculty.

2. Advanced Programs in Orthodontics, Pediatrics, and General Dentistry should be provided with adequate auxiliary and office support staff.

B. College of Medicine

1. Capital funding is needed to renovate and equip teaching laboratories for research.

2. An increase in funding is needed to achieve educational and research objectives, and to address critical deferred maintenance requirements.

## CONSTRUCTION

Question: The President's Budget includes no funds for construction. Does the University have other funds available to begin work on these needs?

Answer: The University does not have any available funds for new construction projects. In 1990, the University secured financing for the construction of a new dormitory and other major renovations to academic and administrative facilities that increased the University's long-term debt to $170.6 million. This is the maximum debt capacity that the University can manage without Federal financial support.

## FUND-RAISING

Question: Dr. Jenifer, the board of trustees of Howard set as a priority for a new president the whole area of fund-raising, including private sector fund-raising and alumni fund-raising. Can you tell us generally if we will see a significant increase in private fund-raising this year?

Answer: Although the matching endowment approach continues to be a positive stimulus for private support, we believe that increased private funding will be more effectively generated by our current plans and future thrust for academic enhancement and research orientation.

Howard University will make a major effort to increase its private sector support this year. We hope the effort will be successful, but we are painfully aware that Howard is only one of 3,300 similar institutions competing for support from private firms and foundations. We are also aware that in these times of economic uncertainty, foundations and corporations are changing, if not reducing, their commitments to provide funds for educational institutions. In addition, individual contributors of the past, both alumni and nonalumni, who have provided significant financial support, appear to be facing declines in their discretionary income. Each of these factors will affect our private fund-raising adversely.

Question: What specific goals have you and the trustees set for raising additional amounts from the private sector?

Answer: We have set a goal of level funding from the private sector based upon the projections of a continuing weakened economy. If the economy improves, as some economists are predicting, charitable contributions would not increase significantly. Prior experience has demonstrated that corporate support generally lags 2 to 3 years behind an economic upswing. Consequently, we will emphasize and pursue a substantial increase in alumni giving and participation. In fiscal year 1990, 10 percent of our alumni contributed nearly $1.1 million for programs and activities. We think that there is room for significant improvement.

Question: What is Howard doing to increase the number of contributing alumni?

Answer: To stimulate alumni giving, we will strengthen our outreach program. Specifically, we will expand our direct mail efforts, personal contacts, and telemarketing and membership drives. We also will make greater use of our notable alumni in the soliciting of gifts.

## ENDOWMENT

Question: Will Howard match the Federal endowment contribution for FY 1991?

Answer: Through the efforts of the University's major fund-raising activities and its 6-year record of private sector contributions, the Federal endowment appropriation of $2.9 million will be matched by September 30, 1991.

Question: What amount could Howard match in FY 1992?

Answer: The University fully expects to match the $4.5 million Federal endowment appropriation requested for FY 1992.

## BOARDER BABIES

Question: In 1989, Howard University Hospital spent approximately $7 million for the treatment and care of 60 boarder babies, and was reimbursed only $500,000. What are the similar figures for 1990?

Answer: In 1990, clinical and ancillary services provided 60 boarder babies treatment and care that generated charges of more than $4 million. The Medicaid reimbursement was $366,000 or $6,100 per discharge.

Question: Has Howard met with any success in its pleas to distribute the caseload among the city's various hospitals?

Answer: We have not been able to transfer the boarder babies to other hospitals largely because they are not acutely ill. The issue is not to transfer them to other hospitals, but rather the appropriate placement of abandoned infants by the local child welfare system.

Question: A transitional model for the care of boarder babies in a community setting was developed by Howard, in cooperation with HUD and the District of Columbia Commission of Social Workers. Has that model been implemented and, if so, how is it working?

Answer: The first phase of the project was a cooperative effort among the Federal Department of HUD, the D.C. Commission for Social Services, and Howard University Hospital (HUH). HUD leased the vacant HUD-owned house to the D.C. Commission for Social Services for $1 per month. HUH undertook to renovate the house at no cost to the local government so that boarder babies from local hospitals like ours could be placed there prior to finding a suitable foster or adoptive home. The total sum of $175,000 to renovate the home was contributed through HUH, following a successful fund-raising campaign.

We are pleased to report that the construction phase has come to a close. The occupancy permit was secured at the beginning of March 1991, and the furnishings have been moved into the completed house. A completion ceremony was held on March 25th at HUH, and an open house was held the same day. The second phase will be the receiving of the actual boarder babies. This phase will be led by Chi Eta Phi Sorority, Inc., which submitted a successful proposal to operate the boarder baby house. The exact opening of the facility to receive the babies will depend on the formal awarding of the contract, and the availability of funds from the District.

## HOSPITAL EXPENDITURE REDUCTION PLAN

Question: Howard University Hospital implemented its 1990 Expenditure Reduction Plan last year to address the critical financing problem at the hospital. It called for the reduction of $11.7 million in labor costs and $2.9 million in non-labor costs, and an increase of $300,000 in non-patient revenue. What progress has been made toward meeting these goals?

Answer: Howard University Hospital had anticipated personnel savings of $10.4 million through its reduction-in-force plan. Actual savings have been $9.2 million. The Hospital also created a task force to reduce its non-personnel costs through implementation of some 103 cost-saving strategies, valued at $3.5 million. Thus far, 80 percent of these strategies have been implemented, resulting in non-personnel cost savings of $1.6 million. These actions have provided actual savings of $10.8 million, thus far.

In its budget, the hospital had included $500,000 in new revenues related to the rental of physician offices in the Tower II building. However, this building is still not complete, and we do not expect to achieve these new revenues in the current fiscal year.

## FOREIGN STUDENT TUITION SURCHARGE

Question: Two years ago, the Appropriations Act implemented a tuition surcharge for foreign students to minimize, somewhat, the degree to which American taxpayers are subsidizing foreign students at Howard. We agreed in conference that this tuition surcharge would be implemented over a multi-year period so as not to work a hardship on current students. This year, foreign students at Howard are paying full tuition plus 10 percent. Next academic year they will pay full tuition plus 30 percent, and the following year we'll add on 50 percent. What has been the impact on foreign enrollment of the 10-percent surcharge implemented this year?

Answer: The final figures have not been computed, but preliminary information indicates that our foreign student population will decline from 1,892 students for academic year 1989-90 to 1,760 students for academic year 1990-91.

Question: The Department claims that foreign enrollment at Howard was dropping before application of the surcharge. Is this true?

Answer: Foreign student enrollment has been declining over the last 5 years. We believe that this is due in part to the inability of many students from African and Caribbean nations, whose economies have performed poorly over the last 5 years, to afford a Howard education. The majority of our foreign students come from those Third World countries.

## ADMINISTRATOR AND FACULTY PAY

Question: An April 1990 document prepared by the Department of Education ("Howard University: A Comparative Fiscal Analysis") reports that Howard spent "substantially more" for total administrative expenses than any other type of institution analyzed in the study. The Department points to institutional support expenditures as the primary cause. Howard spent 1.5 to 3 times more than comparison groups for day-to-day operations, such as executive direction and planning, and legal and fiscal operations. What, if anything, are you doing to lower institutional support expenditures?

Answer: During my initial year as President, I asked a nationally recognized management consulting firm to examine the University's administrative costs in comparison to selected peer universities. The objective of the study was to identify areas where opportunities exist to improve the efficiency and cost effectiveness of university operations.

The consultants have issued a preliminary report which is now in circulation for comments. The report identifies some areas where administrative costs are high in relation to our peers, and makes a series of recommendations for reducing costs in these areas. Within the next fiscal year, the University will implement those recommendations that are deemed feasible.

It is also my expectation that administrative costs will be reduced by the reduction of the University's employee population through the University's Voluntary Employee Separation Program.

## RENOVATIONS

Question: For fiscal year 1991, Congress provided a one-time appropriation of $5,855,000 in emergency construction funding to be used for renovation of Cooke Hall, a student residential complex that is vacant because of critical deficiencies. When will this renovation be complete?

Answer: Construction will start on Cooke Hall by May 1, 1991. The project is scheduled to be completed by August 1, 1992.

Question: What percentage of total funding for renovation does the Federal contribution represent?

Answer: The Federal funding of the Cooke Hall renovations represents approximately 97 percent of the total project costs.

## PLANT OPERATION AND MAINTENANCE

Question: The April 1990 document prepared by the Department of Education ("Howard University: A Comparative Fiscal Analysis") reports that Howard spent significantly more for plant operation and maintenance (14 percent) than any of the comparison groups. To what do you attribute this high expenditure?

Answer: Since the budgets of comparable universities are not available to us, we are not certain how they allocate line item expenditures. The antiquated (constructed in 1935), dilapidated, and potentially dangerous power plant and electrical distribution systems urgently require redesign and reconstruction because they generate exorbitant maintenance costs. An investment of $10.43 million in Federal funds is required.

Question: What are you doing to lower costs?

Answer: The University's early retirement/voluntary separation program will reduce the overall work force of the physical plant. Some non-essential jobs will not be filled. In addition, redesign and reconstruction of the power plant at a cost of $10.43 million will result in the following annual savings:

| | |
|---|---|
| A 20-percent reduction in current annual fossil fuel and natural gas costs of $6.2 million | $1.24 million |
| A 40-percent reduction in current annual operating costs of $400,000 generated by aging equipment | $ .16 million |
| Total Annual Costs Savings | $1.40 million |

PUBLIC SERVICE

Question: The April 1990 study prepared by the Department of Education ("Howard University: A Comparative Fiscal Analysis") reports that Howard spent from 2.1 to 6.5 times more than comparison groups for public service. What sorts of public service activities is Howard currently participating in?

Answer: A major portion of our public service costs are related to the radio station, WHUR/FM, television station, WHMM/TV, and the Howard Inn.

# AMERICAN PRINTING HOUSE FOR THE BLIND

## QUESTIONS SUBMITTED BY THE SUBCOMMITTEE

### PRODUCTS UNDER DEVELOPMENT

Question: You state in your opening that one of your priorities in 1992 will be the development of educational microcomputer applications for multihandicapped blind students. Tell me what you're working on.

Answer: Overall priorities for APH's research program are influenced by the priorities of the U.S. Department of Education, its Office of Special Education and Rehabilitative Services, by Congressional Appropriations Committees, by sales of existing product lines, by consumer input obtained through surveys and needs meetings, and by APH's Educational Research and Development Committee in response to observed, general needs of the field. Research priorities for 1992 address identified needs for special educational materials in the areas of early childhood, multihandicapped, low vision, braille, educational measures, and technology. Product development projects to be continued or initiated during 1992 include the following:

- APH Pocketbraile --This is an existing product which is being improved. Its firmware should be completed during 1992 and its accompanying manual will be updated.

- Authoring Program --This is a new project for which the result will be a tool that will enable APH (and others) to create talking programs for use on Apple IIs, Apple Macintoshes, IBMs, and IBM compatibles. Development will be initiated in 1992.

- High Interest, Low Vocabulary, Age Appropriate Software--This is a project for which the purpose is to adapt/develop microcomputer materials for developmentally delayed students who are in the junior high level or above. APH will begin development of talking software in this project during 1992. The three major areas identified for this software are: (a) daily living skills, (b) study skills, and (c) job-seeking skills.

- Drill and Practice Math Programs--This is a new project on which work will be initiated during 1992. Math programs for practicing/reinforcing skills in addition, subtraction, multiplication, division, decimals, fractions, percentages, grouping, and regrouping will be adapted to enable blind students to access the programs by computer.

- Manuals--AppleWorks is a computer program which is widely used in schools. The adaptation to computer disk of two AppleWorks manuals, AppleWorks Reference Manual and AppleWorks Tutorial, will be completed in 1992. Both disks will be adapted for blind users.

- MECC Software--Several software programs from the MECC series have been adapted for use by blind students. Final programming changes and debugging will be completed during 1992 on MECC's Prefixes software and the accompanying documentation will be revised and completed.

- Talking Literacy Kit (TALK): Apple II Computer--Development of this product will be completed during 1992. Its purpose is to provide an introductory set of speech-accessible computer software and related materials for any of the current Apple II family of computers. These materials will be designed so that they can be fully integrated into existing programs related to computer literacy such as introductory courses on computers for legally blind youth through adults.

### NEW PRODUCTS

Question: On page 4 of your opening, you list several of your new products. They look very interesting to me. Take a minute and walk through them with us and say a word or two about their function.

Answer: A description of the Printing House's major products follows:

- Stanford Achievement Test Form I--The Stanford Achievement Test is the most widely used achievement series in the United States. Ten levels of Series 8 of this test were adapted into braille and large type along with eight accompanying sets of directions for administering the braille editions and eight accompanying sets of directions for administering the large type editions. Special norms were computed for individual braille tests from which items were omitted because it was not feasible to translate them into braille. These norms were computed by the test publisher, Psychological Corporation, from the original norming data, but reflected just those items appearing on the braille edition of the test.

- APH Scientific Calculator for the Apple II Computer--This is a talking computer program enabling the user to make computations such as those normally done on a scientific calculator.

- Read Again--This set of braille training materials is designed to teach braille to persons who lose their vision after initially learning to read print. It teaches braille, not reading. There are nine levels in Read Again. The program includes teaching and practice worksheets, reading selections and activities, tests, and review worksheets along with cassette tape instructions for student use during the early levels. Accompanying Teacher's Editions are available in braille and print. The program is designed to enable a student to meet his or her own reading goals. An older person who only wants to learn enough braille for personal notations and labelings would only use the first few levels of the program while someone wanting a thorough knowledge of the braille literary code would complete all nine levels.

- Talking Typer--This is a computer program designed to improve the keyboarding skills of persons who cannot see the output of their efforts. It can be used by persons of all ages. The program can be used with any typing curriculum because teachers can create lessons to match any textbook. The program supplements and enhances instruction; it is not a substitute for instruction. It will run on any member of the Apple II family of computers which is equipped with at least 128K of RAM and is speech accessible.

- Textalker-gs--This screen access software for the Apple II-gs computer allows public domain, noncopy-protected, and many copy-protected, programs to speak. It remains in the background, permitting voice access to hundreds of Apple programs. Additionally, it permits full access to the control panel and other classic desk accessories.

- A User's guide to the APH PocketBraille--The APH PocketBraille is a portable, battery-operated computer designed specifically for braille users. As a stand-alone unit, it enables the user to write, read, edit, and store approximately 200 pages of Grade 2 braille. When connected to other devices, the APH PocketBraille sends and receives data in the form of ASCII files or program code. This allows for interaction with personal computers, printers, braille embossers, and modems. The user's guide contains the instructions for using the device.

- Effective use of Objects: A Process Centered Intervention--This program provides experiences to help low-functioning learners to develop task oriented behavior that is self-regulating. It provides an assessment and instruction tool. The two volume program focuses on the kinds of problem-solving skills that encourage the functional use of objects. The problem-solving format encourages learners to acquire knowledge about how, when, and where to utilize various strategies for object use. Each section identifies situation-specific skills, problems individuals are likely to encounter within these situations, and potential problem-solving strategies.

- Apple II-gs Owner's Manual: Disk Edition--APH attempts to provide manuals in forms accessible to persons who are blind to support use of commonly used microcomputer equipment and programs. Apple offered to supply APH with the ASCII text files for Apple manuals for editing and dissemination by APH. In preparation for a disc version, the text files of the Apple II-gs Owner's Manual were broken down by topics into small files and grouped in subdirectories for easy access. Additionally, the disk contains the complete manual in one large file for those who wish to print it out in its entirety in braille or large type. Special introductory material is included in hardcopy. Apple editors approved the disk version.

## TRADITIONAL PRODUCTS

Question: Tell us something about the more traditional products you've produced over the last year--textbooks and so on.

Answer: During 1990, APH produced approximately 20,000,000 pages of braille, 3,000,000 pages of large type, and 24,000 educational aids.

## OFFICE OF INSPECTOR GENERAL AUDIT

Question: Dr. Tinsley, what is the status of your appeal of the 1989 program determination by the Department related to the alleged inappropriate expenditure of Federal funds by the Printing House?

Answer: In 1989, the Department issued a program determination directing the Printing House to restore a proportional share of $250,400 found to be improperly charged to the Federal program to the participating public and private nonprofit educational agencies and institutions in the form of credits for the purchase of additional materials. On May 8, 1991, the Office of Administrative Law Judges (OALJ) ruled in favor of the Office of Special Education and Rehabilitative Services, deciding that the Printing House violated the Act to Promote the Education of the Blind by including building depreciation expense in the cost of books and materials for blind students subsidized under the Federal program. The OALJ ruled that the practice was the functional equivalent of spending the Federal appropriation for the erection or leasing of buildings, which is prohibited under the Act. The parties are now preparing briefs on the second issue raised by the Printing House related to whether APH should be permitted to offset the disallowance with losses it allegedly sustained in the Federal program during the audit period.

## TIMELINESS OF MATERIALS

Question: The Department began an evaluation of the Printing House in 1989. It found that States were generally very positive about the performance of the Printing House. They praised the quality of products and the dedication of Printing House staff. Some minor concerns were, however, raised. One of these concerns involved the need for more timely delivery of materials. What, if anything, has the Printing House done to improve delivery time?

Answer: Provision of materials in a timely manner is a major focus companywide. In priority order, the first two of eight goals identified in January 1991 for APH's strategic plan directly address the timely delivery of educational materials. These are:

Goal #1--"To Implement a comprehensive APH information system by August 31, 1992."

Goal #2--"To fulfill orders for 95 percent of all APH inventoried products within one week by January 1, 1994."

Strategies which have recently been implemented to address timely delivery include the following:

A. A master production schedule for manufactured items has been developed and is monitored on a weekly basis. The schedule includes longer runs to cover backorders and provide stock for future orders.

B. During the past year, manpower has been increased in the manufacturing, large type, and braille areas to increase production capacity.

C. Finished goods inventory has been increased by $516,000 since April 1990, increasing the ability to provide more materials on demand.

D. APH has continued to work with publishers to acquire computer files of textbooks and thereby reduce the time required to transcribe textbooks into braille.

E. On May 1, 1990, and May 1, 1991, APH used its own funds to advance one-half of the previous year's allocation to educational programs. This action allowed administrators of programs to order educational materials six or seven months prior to the availability of Federal funds intended for that purpose. In the past, funds were not made available until appropriated, which was October 1 at the earliest. This did not allow students to receive materials ordered with new funding until three or four months into the school year.

F. "Early Start," a service initiated in 1989, has continued to evolve and provide quick delivery of the most popular large type textbooks. By obtaining copies of newly copyrighted titles and the necessary permissions from the publishers, APH is able to begin production of the books when orders are received. In the past, customers had to provide APH with two copies of each book, then APH was required to obtain written permission from the publisher to copy the book.

## COST OF MATERIALS

Question: Some State directors complained about the cost of materials, such as tangible aids, and the amount of overhead charged for materials made available from other vendors. Have you given consideration to ways you might lower these costs to States?

Answer: Reduction in the cost of braille and a reduction in overhead were identified in January 1991 as two of the goals for APH's strategic plan. These are:

Goal #6 - "To reduce the cost of quality braille by 25 percent by 1995 based on the cost of producing braille for the National Library Service in 1990."

Goal #7 - "To reduce the percentage of overhead costs to sales from 46 percent (May 1990) to 34 percent by June 30, 1995."

Strategies which have recently been implemented to reduce costs include the following:

A. All manufacturing processes are being reviewed to identify methods to reduce costs. This will be an ongoing process.

B. Effort is being expended to identify more than one vendor for raw materials, thereby reducing costs of the materials through competitive bidding.

C. With the implementation of a comprehensive information system, production planning will improve through the use of current, interactive data regarding demand, sales history. workflow, capacity, manpower requirements, lead time for ordering raw materials and inventory status.

D. Working with publishers to acquire computer source files of textbooks should result in a reduction of the costs of braille textbooks due to the reduction in time required to transcribe the texts.

## DISABLED EMPLOYEES

Question: Last year, the House subcommittee directed the Printing House to continue efforts to increase its number of disabled employees, particularly blind or visually impaired employees. What progress has been made over the last year? What percentage of current employees are blind or visually impaired, and what was that percentage last year?

Answer: The percentage of the workforce at APH comprised of handicapped employees is at an all-time high of 18.4 percent. While the total number of employees has gradually declined over the past several years due to mechanization and streamlining, the number of employees with disabilities has remained relatively steady. In 1990, the Printing House had 21 employees with visual impairments. The number for 1991 is 22.

Question: Are you actively recruiting disabled employees?

Answer: At APH, job openings are reviewed by management staff to assure that qualified applicants with disabilities are considered for employment, and job descriptions are reviewed periodically to ensure that job requirements are valid. During fiscal year 1991, outside consultants from the National Institute on Disability and Rehabilitation Research's Research & Training Center on Blindness & Low Vision will conduct on-site analyses of all positions to determine the visual demands necessary to perform the tasks required of each position.

When employment opportunities occur, the Printing House notifies agencies that specialize in the placement of individuals with disabilities of the job opening. Each job posted outside APH is posted with 28 agencies. These include: Alpha, Incorporated; Kentucky Council for the Blind; Kentucky Department for Employment Services; Kentucky Bureau of Rehabilitation Services; Kentucky Industries for the Blind; Kentucky School for the Blind; Indiana Employment Security; and the National Federation of the Blind. In addition, staff from APH's personnel office have met with recruitment sources specializing in the referral of persons with disabilities to explain the types of jobs available at the institution.

## TRENDS IN AUDITORY, VISUAL, AND BRAILLE READERS

Question: The percentage of auditory readers and nonreaders served by the Printing House increased in 1990, while the percentage of visual and braille readers served declined. To what do you attribute the decline in braille readers?

Answer: Data included in the budget submissions are provided approximately 18 months prior to the beginning of the fiscal year for which the request is written. Therefore, numbers regarding total students and categories of students are estimates made at the time the budget request is submitted to the Department of Education. Actual figures for FY 1989, FY 1990 and FY 1991 are provided below, while the figures for 1992 and 1993 are estimates.

Number and Percentage of Students by Reading Medium

| | FY 1989 | FY 1990 | FY 1991 | FY 1992 | FY 1993 |
|---|---|---|---|---|---|
| Visual Readers | | | | | |
| Number: | 14,115 | 14,370 | 14,426 | 14,925 | 15,406 |
| Percentages: | 31% | 31% | 30% | 30% | 30% |
| Braille Readers | | | | | |
| Number: | 5,400 | 5,471 | 5,630 | 5,970 | 6,163 |
| Percentages: | 12.05% | 11.77% | 11.71% | 12% | 12% |
| Auditory Readers | | | | | |
| Number: | 7,449 | 7,034 | 6,399 | 5,970 | 6,163 |
| Percentages: | 17% | 15% | 13% | 12% | 12% |
| Prereaders | | | | | |
| Number: | 4,023 | 4,618 | 5,426 | 5,970 | 6,163 |
| Percentages: | 9% | 10% | 11% | 12% | 12% |
| Nonreaders | | | | | |
| Number: | 13,834 | 14,991 | 16,190 | 16,915 | 17,460 |
| Percentages: | 31% | 32% | 34% | 34% | 34% |
| TOTAL | | | | | |
| Number: | 44,821 | 46,484 | 48,071 | 49,750 | 51,355 |
| Percentages: | 100% | 100% | 100% | 100% | 100% |

Although the number of braille readers has increased slightly during the past three years, the percentage of braille readers of the total number of eligible students has decreased slightly. However, when current figures are compared to the fact that 48% of eligible students registered in 1965 were registered as braille readers, the decline is much more significant. Reasons for this decline may be attributed to a combination of the following factors:

A. Changes in categories used to report reading media;

B. A shortage in teachers in the education of blind students;

C. An increase in infants and preschool children, all of whom are now classified as prereaders;

D. An increase in adult students, most of whom prefer auditory reading or are nonreaders; and

E. An increase in multihandicapped students, most of whom are nonreaders.

Question: Among educators, it there a preference for one method over another? In other words, should we be concerned about this decline?

Answer: There is no preference among educators for one method of reading over another. The preference is determined by the needs of the student. The concern of educators is that each student must have access to materials in the medium in which he/she works most effectively. A student who needs to use braille must have access to a teacher trained to provide the necessary braille instruction. The student must then have access to appropriate materials in braille.

The current shortage in teachers trained to work with blind students and the shortage of materials available in braille are topics of national concern. APH is placing major emphasis on addressing the latter. In addition, as technology improves, the ability to provide a wider range of braille materials in a more timely manner will increase.

# NATIONAL TECHNICAL INSTITUTE FOR THE DEAF

## QUESTONS SUBMITTED BY THE SUBCOMMITTEE

### REPETITIVE MOTION INJURY STUDY

Question: NTID was granted emergency funding last year of $600,000 to combat repetitive motion injuries (RMI). NTID is experiencing a serious problem with interpreters developing debilitating conditions which affect their ability to function on the job. The President's request for fiscal year 1992 maintains the $600,000 in its base, but NTID has requested $1,086,000. The Department maintains that $600,000 is sufficient to cover the hiring of additional interpreters. It notes that concerns with repetitive motion injuries are not limited to NTID, that they are national in scope and affect a wide variety of workers whose activities involve intensive, long-term use of the hands. Additional Federal support for further research, in the Department's view, should be coordinated with ongoing projects at NIH, awarded competitively, and properly monitored. Why are they wrong?

Answer: NTID has a contract with the Center for Occupational Rehabilitation (COR) at the University of Rochester to conduct a descriptive multidisciplinary analysis of factors assumed to play a role in the development, exacerbation and maintenance of RMI, to conduct clinical evaluations of 24 injured interpreters and subsequent rehabilitation programs, and ultimately to produce a comprehensive prevention program. NTID does not consider this project to be research.

During fiscal year 1990, the Department discussed its concerns regarding the need for research like this to be competitively awarded. NTID has subsequently begun to develop some research proposals to take an in-depth look at the cause of RMI. These will be submitted to the National Institutes of Health, National Institute on Disability and Rehabilitation Research, and Centers for Disease Control for competitive awards. The proposal to be submitted to NIDRR would be for a retrospective study to replicate the COR study discussed above on a national level to identify characteristics of RMI cases. The other would be a prospective, longitudinal, cross-sectional study of the psychological, emotional, physical and biomechanical aspects of RMI.

### INTERPRETER STAFFING LEVELS

Question: I understand that you've used the initial $600,000, in part at least, to hire 15 additional interpreters. Was the entire $600,000 dedicated to new hiring?

Answer: NTID did hire 15 additional interpreters and commence a multi-phase project to address RMI concerns. However, the NTID appropriation, including the $600,000 emergency funding, was affected by the 2.41 percent reduction in fiscal year 1991.

Question: The 15 new hires, bring the number of NTID interpreters to 75. That's a 25% increase in interpreters.

Answer: NTID agrees that this is true, but points out that it is roughly equal to the loss of productivity. One of the major strategies employed by the Institute to stem the injury rate was to reduce the weekly expected classroom workload of a full-time interpreter from 25 hours to 20 hours. Additional interpreters are also needed because demand has increased due to the rising numbers of deaf students enrolling in Rochester Institute of Technology (RIT) baccalaureate programs. The percentage of NTID's students cross-registered at RIT has increased from 16 percent in 1986 to 24 percent in 1991. The Institute considers this to be a very positive sign for its academic programs and students, but has resulted in added pressure for the interpreting department.

## STUDENT RETENTION

Question: Currently, NTID has a retention rate of 52 percent. How does this compare with other institutions?

Answer: The Institute's overall retention rate is consistent with that of RIT's and higher than institutions with open admissions policies, such as community colleges. NTID found that it was substantially higher than an average of 95 other recognized postsecondary programs serving the deaf. These institutions, on the average, have 24 freshmen deaf students enrolled in any given year, yet graduate only 7 students per year. This results in a persistence rate of only 30 percent compared to NTID's 52 percent. These statistics are not directly comparable because NTID provides degrees below the bachelor's and associate degree level such as the degree of "diploma" or "certificate" and most of these schools do not. However, for the small number of students able to make it into one of the baccalaureate or master's degree programs at RIT, the persistence rate is 74 percent.

Question: What is the cause of low retention at NTID?

Answer: NTID has established a retention committee to study the situation. This committee has found that the majority of attrition occurs during the first year and the most frequently given reason why students withdraw from NTID is the student's inability to select a program of study. A total of 23 percent of students leave after the first year and a total of 38 percent after two years. In addition, students describe this exit in terms of being unmotivated and needing a break. These factors profoundly affect a student's ability to integrate into the college environment.

Question: What steps is NTID taking right now to reverse this trend and are you seeing any progress?

Answer: The Institute believes that its retention rate is quite favorable when compared to other similar institutions. However, it continues to try to improve its retention rate. NTID agrees that retention is very important. Its studies of graduates have shown that these students will forego significant economic and quality of life advantages if they leave college before graduating. For example, a student that withdraws without any degree can expect to earn 32 percent less than a comparably educated hearing peer, while a master's degree narrows that gap to only 11 percent.

While NTID's retention committee was impressed by the variety of current initiatives that currently focus on persistence, including bridging and sampling courses, counseling and psychological services, and early warning and prescriptive programming, it found a need to better share information among NTID's three schools. Based on the recommendations of the committee, NTID established action-oriented School/Division Retention Committees in each academic area to monitor retention figures, assess programming for high-risk students, administer exit interviews, and recommend changes in programs and services, including focusing increased attention on career development programming for first year students to improve the quality of the teaching/learning environment.

Nine other institute-wide projects have been undertaken, including a seminar designed to help students improve learning skills, the purchase of captioned entertainment films in an experimental effort to teach vocabulary, and creation of a "Bridging Lunches" program as a way for entering students to develop meaningful contact with NTID faculty and staff members.

Retention rates for new students have been improved by 5 percentage points between the entering class of 1988 and 1989. For the class entering in 1988, 73 percent registered for classes in the fall of 1989. For the entering class of 1989, 78 percent registered for the fall of 1990. In fiscal year 1991, the Institute experienced the smallest percentage decline in its history, 5.2 percent, from fall quarter to winter quarter, and it is the third year in a row that it has declined from the previous year. The average is above 7 percent.

## COMPUTER-AIDED SPEECH TO PRINT TRANSCRIPTION

Question: You mention in your opening statement that you're going to be experimenting with "Computer-Aided Speech to Print Transcription" (C-Print) in your classrooms. Tell us how this works.

Answer: Since 1982, NTID's research activities have included the development and demonstration of real-time graphic display (RTGD) for use by undergraduate deaf students in mainstream classes. This system utilizes a court stenographer and computer interface to convert speech of the professor and classmates into verbatim text in a manner similar to real-time captioning. This system has proven to be very useful to students. Unfortunately, since qualified stenographers are not widely available and the system is costly, the Institute has not been able to extend its use as much as it would have liked to.

As a less costly alternative to RTGD, NTID is developing another computer-aided speech to print transcription system which it is calling "C-Print". Like RTGD, its primary intent is to provide real-time text to deaf students in mainstream classes. Unlike RTGD, it uses typists, who are more readily available and less costly than court stenographers, and a "dictionary" of abbreviations which permits a specially trained operator to transcribe speech at a rate in excess of 100 words per minute. As more abbreviations are added, NTID expects that the speed will approach the range of the "normal" speaking rate in the classroom.

Question: Do you plan on offering the C-Print service in any of your classes on a regular basis?

Answer: NTID anticipates that C-Print will be introduced to deaf students in one or more mainstream classes at RIT later this year for initial evaluation and refinements as needed. Broader use will depend upon its cost-effectiveness.

## MATCHING ENDOWMENT PROGRAM

Question: NTID concluded in 1990 its third year of active solicitation of private contributions, raising a total of $322,000 in contributions qualifying for the Federal Endowment Matching program. The NTID endowment was set up to promote the financial independence of the institution.

NTID has met the Federal match each year. For fiscal year 1991, Congress provided $328,000 for the endowment, and we expect NTID will again be able to match that amount. What is NTID capable of matching in fiscal year 1992?

Answer: As of March 1, 1991, the Institute has raised $240,026, of which $130,977 qualifies for Federal matching dollars. The book value of NTID's endowment now stands at approximately $2,800,000. The Institute feels confident that it can raise the $342,000 that is recommended in the Department's fiscal year 1992 Request and might be able to raise up to a total of $500,000 if funding is available for this purpose.

## ALUMNI CONTRIBUTIONS

Question: What percentage of alumni contribute to NTID?

Answer: Last year, NTID set up a new Alumni Relations Office with the expressed intent of organizing the alumni for a number of reasons, including fund raising. The most recent data indicate that approximately 7 percent of alumni make contributions. This is up from roughly 4 percent in prior years.

## DEMOGRAPHIC TRENDS FOR MINORITY DEAF INDIVIDUALS

Question: Demographic research conducted by NTID shows that the pool of deaf persons between the ages of 18 and 21 is decreasing, but that the number of minority students in that pool grew from 29 percent in 1982 to 35 percent in 1990. Why isn't the pool of minority deaf persons decreasing at the same rate as the pool of non-minorities?

Answer: The absolute number of minority individuals who are deaf is decreasing, but at a much slower rate than the rate of non-minorities. Hence, their representation is becoming an ever larger share of the pool, just as it is in the hearing population.

## MINORITY ENROLLMENT

Question: What percent of NTID students are minority?

Answer: The percentage of incoming students who are minorities increased from 5.8 percent in 1986 to 17 percent in 1990, the highest percentage of minority students admitted in one year in the history of the Institute. As a result, approximately 12 percent of all students enrolled at NTID in the fall of 1990 were minorities.

## MINORITY FACULTY

Question: What percent of NTID faculty is minority?

Answer: Minority representation on NTID's faculty currently stands at 4.4 percent.

Question: As the percentage of minority students grows, what is NTID doing to increase the number of its minority faculty?

Answer: Since 1985, the Institute's employment of ethnic minorities has increased from 17 faculty and staff to 45 in 1990. At the end of fiscal year 1990, a total of 29, or 5 percent, of NTID faculty and staff were black. Over the same period, the number of disabled employees grew from 54 to 88. The number of deaf and hard-of-hearing employees rose from 47 to 80. During this time, NTID hired 51 minorities and 64 disabled people or a total of 115 minorities and disabled people out of 355 total hires (33 percent).

NTID notes that it continues to be alert to ways to improve its minority faculty ratios. For example, it recently redesigned the faculty hiring process to include the following initiatives:

- Establishing a Job Description: Job descriptions will be established by the department faculty and approved by the dean. Job responsibilities and qualifications will be carefully reviewed to assure that they are not exclusionary to minorities or disabled people. In addition, each description is required to contain the following qualification: "Ability to contribute in meaningful ways to the college's continuing commitment to cultural diversity, pluralism and individual differences is strongly preferred."

- Search Committee: Whenever possible, people who are deaf or hard of hearing, other individuals with disabilities, women, and persons who are minorities are to be members of search committees. An external member to the department will be appointed to each search committee by the dean in consultation with the department chairperson. This member will be a voting member of the committee and will provide an external view in the search process. At one of the search committee's initial meetings, the appropriate assistant dean, with the assistance of the affirmative action manager, will provide an orientation regarding the Institute and RIT's affirmative action posture.

- Recruiting and Advertising: As with all positions to be filled at NTID, a written Recruitment/Advertisement Markets Plan must be developed and approved at the time the position requisition is approved by the dean. The standard, "Rochester Institute of Technology is an affirmative action/equal employment opportunity employer", statement should be printed in all NTID job announcements and advertisements. The statement, "People who are deaf or hard of hearing, individuals with other disabling conditions, women, and/or members of a minority group are encouraged to apply", should be considered for use. Dissemination strategies include placement of announcements in professional journals, newsletters, and publications for the appropriate disciplines, recruitment at professional conferences and postings at educational institutions likely to produce strong candidates. Less formal networks are to be initiated through calls and letters to professional colleagues and key community members. NTID's manager of affirmative action is to be contacted for advice on recruitment plans and strategies.

- Interviewing Process: The process of developing a final interview pool of candidates should be done in accordance with Institute goals to increase the employment of people who are deaf or hard of hearing, individuals with other disabling conditions, women, and people who are minorities. The search committee will determine which interviewed candidates meet the stated qualifications for filling an open position. All identifiable protected class individuals must be brought to the attention of the appropriate assistant dean, in writing, prior to the interview phase. If there are no protected class individuals in the interview pool, the search will continue until there are such candidates in the interview pool. In the event that through the recruitment process qualified protected class individuals are unable to be identified for interviews, the assistant dean will explain the circumstances in a written rationale to the dean before proceeding further. All interviewed candidates who meet the stated qualifications for filling the position will be reported out, in alpha order, with the strengths and weaknesses of each candidate detailed. A log of pertinent information about all applicants is to be compiled for the affirmative action documentation at the end of the search process.

The Institute believes that these initiatives provide ample evidence that it has been working very hard to increase its minority and disabled population on staff to better reflect the students it serves. NTID considers this initiative to be absolutely fundamental to its primary mission of preparing deaf students for work and society. It believes this priority is articulated best in the following statement of the Institution's policy commitment:

## DIVERSITY TO PLURALISM: AN EDUCATIONAL IMPERATIVE

Diversity is becoming a focus in higher education, and in society at large. When properly addressed, diversity adds richness to educational endeavors, particularly if the college strives to foster a vision of pluralism. That is, a vision of society in which members of diverse ethnic, racial, religious, disability or other social groups are able to participate in, and develop, individual traditions within the context of a common community. A vision in which the contributions and unique assets of each group become distinguishing features of the larger community.

Central to NTID's mission as an educational community is the fundamental charge to prepare young people who are deaf to participate in society and compete in the workplace on a par with their peers. However, given the continuing shifts in national demographics, fulfilling this fundamental mission requires that students be prepared to enter a progressively more diverse society and workplace. As a result, the students will need to develop knowledge and skills regarding living and learning in this environment. This is critical, if they are to gain the understanding necessary to actively participate in society and contribute in meaningful ways to their own success and the success of the community in which they live.

In addition to preparing students to enter society and workplace, NTID's academic environment must be responsive to the needs of an increasing number of people who are both deaf and from minority backgrounds. For example, minority students who are deaf are becoming a larger proportion of NTID's potential student pool. By the year 2000, students who are deaf from minority backgrounds will represent nearly 40 percent of all 18 to 21 year olds as compared to 29 percent in 1982. This demographic shift is already being reflected in NTID's student body. Over the past two years, 14.5 percent and 16.8 percent of entering classes have been comprised of minority students, bringing their representation in the 1990 fall enrollment to nearly 12%. This is 50% higher than it was four years ago.

NTID's commitment to recognize, celebrate, and value cultural diversity and individual differences is grounded in the Nation's continuing effort to forge a pluralistic society. It does not arise merely from political pressures nor rests solely on public law. It is based in NTID's fundamental mission, the nature of the changing student body, and the changing nature of the world.

Diversity is an asset upon which NTID can educationally capitalize, not a hurdle or governmental edict which must be complied with. Simply put, it is a pedagogical opportunity for faculty and staff and a learning opportunity for students. Therefore, it is incumbent upon the NTID community to vigorously pursue a course of action that capitalizes on its diversity and continues to promote and nurture pluralism as a central theme.

## FOREIGN STUDENTS

Question: This year, for the first time, 17 international deaf students were admitted to NTID. Applications from 50 foreign students are expected for next year. Under an agreement between NTID and the Department of Education, these foreign students are assessed a 50 percent surcharge above the tuition rate to help offset subsidization by the American taxpayer.

The agreement between the Department and NTID expires this year, and a new arrangement will need to be worked out. The Department would like to increase the surcharge for foreign students to 135 percent above the tuition rate -- that's the average out-of-state tuition at comparison institutions chosen by NTID. What is the average annual Federal subsidization for the education of a single NTID full-time student?

Answer: For Fiscal Year 1990, the cost per student for educational services was $17,300. Reducing this level by the required tuition and surcharge leaves a subsidy level of $13,048.

Question: Of the 17 foreign students enrolled this year, 15 are from Canada, one from Japan, and one from Australia. Why should the American taxpayer subsidize the education of students from prosperous industrialized nations? Aren't we letting the countries of origin off the hook?

Answer: The Institute believes that the number of students is thus far sufficiently small so that the subsidy is virtually zero and should not be a major concern for Congress. In addition, these countries are currently paying the full tuition and surcharge amount agreed upon last year. NTID also expects that in the future, many individuals coming to NTID will also come from developing countries. Funds are not available to assist these students with tuition. NTID has used interest from the endowment for institutional aid, but only for domestic students.

## FACULTY SALARIES AND STAFFING LEVELS

Question: Enrollment at NTID has dropped 16% since 1985, the peak of the rubella bulge. But the number of staff and faculty has dropped just 1%. And yet, you have requested a 6% increase in funding for salaries. In light of relatively low enrollment, generous salary increases granted in the past, and an estimated rate of inflation of only 4.1 percent, how do you justify a request for additional funds for salary?

NTID faculty and staff 1985: 579
NTID faculty and staff present: 573 (-1%)
NTID enrollment 1985: 1,319
NTID enrollment present: 1,101 (-16%)

Answer: Statistics regarding staffing levels at the Institute for particular periods have varied over time. However, NTID reports that its faculty and staff actually reached a high during the rubella crisis of over 605.1 FTE. In 1988, it states that staff was reduced by 35 FTE as enrollment began to decline. In 1990, another 6 positions were eliminated. However, this decrease was somewhat offset by the increase in interpreters. Since 1988, NTID added 18 new interpreters (15 in 1991). Current faculty and staff as of March 31, 1991 is reported to be 583.8 FTE.

NTID states that it is already committed to granting a 5.75 percent merit increase to faculty and staff. This is somewhat less than the 6 percent across-the-board increase for faculty and staff plus 1 percent of salary for benefits requested by NTID in its submission to the Department. The Institute points out that RIT establishes its salary increase in the February prior to the fiscal year in question, and NTID contends that it is obliged to follow suit for legal, political and competitiveness reasons. NTID believes that its total compensation package for faculty is considerably lower than for the comparison group it uses for this purpose and feels that it is important that it not be eroded further. That overall difference in total compensation grew to $8,000 in 1990-91 with respect to NTID's self selected peer group and total average compensation was about $2,500 less than that for RIT's faculty. However, the Department notes that a major factor contributing to the difference in total average compensation between NTID, RIT, and the comparison group is the difference in qualifications and tenure status of NTID staff.

The Institute asserts that, in order to maintain pay equity and competitiveness with the colleges with which it compares itself, it needs to at least keep pace with RIT increases, though NTID believes that RIT has fallen behind its market and is only now trying to catch up. This has been a problem for many institutions because of the runaway inflation rates in higher education. NTID attributes the primary reason for what it sees as RIT's deteriorating condition to its status as a private institution, which causes it to be cognizant of the "bottom line". The Institute states that RIT needs to be, and therefore has been, very frugal with merit dollars over the last several years. NTID provided the following table as evidence of this disparity.

ANNUAL INCREASES

| Year | RIT | AAUP | SURVEY | APPROP |
|---|---|---|---|---|
| 1984 | 5.0% | 5.7% | 5.2% | 6.5% |
| 1985 | 6.0% | 7.1% | 3.7% | 7.1% |
| 1986 | 3.0% | 7.3% | 7.7% | 2.1% |
| 1987 | 7.0% | 6.6% | 5.5% | 4.5% |
| 1988 | 4.0% | 6.5% | 6.3% | (1.9%) |
| 1989 | 5.5% | 6.8% | 6.6% | 5.5% |
| 1990 | 6.0% | 7.3% | 7.2% | 3.8% |
| 1991 | 5.5% | 6.6% | 5.4% | 7.3% |
| 1992 | 5.8% | 6.3%* | 6.0%* | 4.4%* |
| AVERAGE INC | 5.3% | 6.7% | 6.0% | 4.4% |
| INCREASE COMPOUNDED | 57.7% | 79.1% | 68.2% | 40.3% |

* NTID Estimate

NTID compares the above compounded increase in RIT merit increases of 57.7 percent to the 79.1 percent growth in the AAUP and 68.2 percent growth in its survey of comparison institutions as evidence as to why RIT has fallen behind the marketplace. It believes that, if NTID were to grant less than RIT, it would fall even further behind its comparison group.

The Department's position paper, Analysis of the Agreement Between the Federal Government and the Rochester Institute of Technology for the National Technical Institute for the Deaf, agreed that the Federal agreement with RIT for the operation of NTID indicates an intention that salaries at NTID be set in accordance with the standard rates and policies of RIT. However, the provisions were not interpreted as obligating NTID to strictly adhere to RIT's salary policy in all cases. The Secretary has sufficient flexibility to require NTID to reduce general or specific expenditures to conserve Federal funds or maintain expenditures for specific educational and support programs if a general reduction in funding were to occur. For example, in the case of a general sequester, it may not be in the best interest of students at the Institute if funding for student services were cut in favor of salary increases for faculty and staff. The paper concluded by indicating that the increases anticipated by RIT are important and valid factors to be considered in developing the request for this account. However, the Federal appropriations process cannot be held hostage to agreements over which it has no control.

RIT is currently trying to catch up with the market and will continue with the second year of a plan to raise professional staff and clerical staff salaries closer to the market rate. RIT's Office of Personnel has conducted studies indicating that average salaries in grades 1 through 5 of its professional staff are behind the market as follows:

| GRADE | BEHIND THE MARKET |
|---|---|
| 1 | 11.5% |
| 2 | 13.5% |
| 3 | 11.0% |
| 4 | 10.0% |
| 5 | 8.6% |
| 6 | 5.0% |

As a result, RIT is making selected market adjustments over a two year period to eliminate the disparity. The cost to NTID in fiscal year 1991 will be $110,000, and the Institute expects next year's adjustment to cost approximately $115,000.

According to the same source, clerical staff salaries are approximately 1.5 percent below the local market at the lower end of the scale and 12 percent at the higher end. A two year plan is underway to increase salaries for them. This year's cost to NTID will be approximately $30,000; the Institute expects next year's adjustment to cost $35,000.

NTID believes that deviating from RIT's salary practices would be unwise and unfair. NTID considers its employees as RIT employees who happen to be working on behalf of RIT and the Federal Government to fulfill an agreement to serve deaf students on the campus of RIT. NTID points to the Agreement as support for comparable salaries:

> "All contemplated and budgeted items for salaries, travel costs, retirement, insurance, sick leave, annual leave, sabbatical leave, service charges, etc. must conform to the standard rates and policies of the sponsoring institution."

NTID notes that Congress and the Department agreed that this was the most prudent and appropriate way to do business and were careful to spell it out. The Institute believes that this indicates that they knew that to separate out NTID practices from those of RIT would be intrusive and unwise.

## CONSTRUCTION AND MAINTENANCE FUNDS

Question: According to the justifications, in addition to the $476,000 appropriated for fiscal year 1990 for construction, NTID has "identified $1,074,309 in unused construction funds available from prior appropriations." When did you identify these funds, and did this committee know that they had gone undedicated at the time it appropriated the additional $476,000 for construction?

Answer: The $1 million in unused construction funds refers to funds carried over from 1988 and 1989. These funds are being used for deferred maintenance and special projects such as a new project to create additional space for the interpreter program. Approximately $800,000 in funds appropriated for operations in fiscal year 1990 were unexpended at the end of the year and set aside for equipment purchases. When appropriations are less than originally planned for, NTID postpones equipment purchases until the end of the year to see if there are any funds left over due to efficiencies, etc. At that point the Institute determines its highest priorities with respect to capital needs: equipment and/or remodeling. The same was done in fiscal years 1989, 1988 and 1987. The sum total of all funds for those years allocated, but yet to be spent, is approximately $1,800,000.

NTID explains that much of the reason for the money being unspent relates to an inability of RIT maintenance to do the work as specified. Over the past two or three years, RIT has experienced some major problems with asbestos in its dormitory buildings. In order to fix the problem they have needed to use NTID dorms while they repaired RIT dorms. The dorms were occupied during the summer, so the strobe installation was postponed. In addition, the already under-staffed RIT maintenance people have been occupied with other institutional priorities. This, coupled with budgetary cutbacks at RIT, has caused the NTID work to be left undone. This is one of the primary reasons NTID is not asking that its construction request for fiscal year 1992 of $1,843,000 be restored at this time. NTID may proceed with plans to modify its plant to provide strobes for the lavatories and offices in its academic building, which would cost $135,000, and new hallway doors for the physically disabled, which would cost $26,500. Therefore, NTID is asking the Department to allow it to take $800,000 of the $1,800,000 originally targeted for capital needs, detach it from the original purchase orders, and apply it to fiscal year 1992.

Question: It states in the justification that you now plan to use these identified funds for various new activities, everything from installing new smoke detectors to replacing diseased trees. And you are requesting yet more construction money for FY 1992. Why should we give serious consideration to this request when past funds are unspent and being re-targeted?

Answer: As stated above, NTID is not asking that its construction request of $1,843,000 be restored at this time.

## ON-GOING CONSTRUCTION PROJECTS

Question: Congress provided $482,000 for fiscal year 1990 for repairs and construction at NTID. Some of those repairs were delayed because of ongoing asbestos removal at the Rochester Institute of Technology, which resulted in an overflow of students into NTID's dormitories. Delayed repairs included replacement and expansion of the strobe light fire alarm system and installation of smoke hatches in NTID dormitory stairwells. When will these repairs be completed?

Answer: In fiscal year 1990, Congress provided $476,000 for construction to remedy safety and security hazards in the NTID dormitories. The projects are finally underway and are scheduled for completion by early in fiscal year 1992.

## BENEFIT LEVELS FOR INTERPRETERS

Question: NTID is apparently considering a special, extensive benefit package for interpreters -- one in excess of that otherwise available through the Institute's disability insurance or workman's compensation. Why should benefits for individuals suffering from repetitive motion injuries be handled in a different manner from individuals suffering from other work-related disabilities?

Answer: NTID explains that it felt that the institution was experiencing an epidemic with respect to Repetitive Motion Injury (RMI). Nearly half of its interpreter workforce (38 out of 65) were suffering from an RMI-related disability or placed on reduced workload. The interpreters seemed to become disabled on a daily basis and seventeen percent of the classes in the other colleges of RIT were without NTID-sponsored interpreting services. NTID states that it was informed that a Notice of Complaint was filed with OSHA by the interpreters, they were ready to walk off the job, and the students were considering boycotting classes in sympathy. Under these circumstances, the Institute does not feel that it acted precipitously. NTID notes that its actions were consistent with advice it received from OSHA.

In addition, the Institute points out that worker's compensation and medical benefits for injuries related to RMI over the past five years increased dramatically:

| YEAR | WORKERS COMP | MEDICAL |
|---|---|---|
| 1986 | $49,005 | $7,336 |
| 1987 | 32,181 | 15,164 |
| 1988 | 47,262 | 14,111 |
| 1989 | 70,949 | 23,972 |
| 1990 | 130,928 | 63,229 |
| TOTAL | $330,325 | $123,812 |

NTID notes that, as seen above, worker's compensation and medical benefits costs were approaching one half million dollars, with over 60 percent of the costs occurring in the last two years. RIT is self-insured, so these costs are paid for directly through the appropriation. The Institute emphasizes that these amounts do not include costs associated with short term and long term disability, nor the lost time from work and therefore the cost to replace them. With these burgeoning costs, NTID felt that it would have been derelict in its job as stewards of the taxpayer's dollar as they relate to NTID, if it took no action.

In addition, NTID was concerned that so many of its interpreters were injured and it was getting conflicting advice from a wide variety of physicians. The institute felt it needed to dispel all the rumors and misinformation. Therefore, it decided to give special benefits to these employees. However, in response to concerns expressed by the Department of Education, the Institute made it clear that the extra benefits for interpreters were part of a special study and that all benefits for future injuries would be handled as they always are through Worker's Compensation. NTID notes that it has reduced the number of injured interpreters to less than 15 and the uncovered classes to 10 percent which indicates that the program is a success.

## FUNDING FOR OPERATIONS

Question: The Department has requested level funding for NTID Operations. It notes that between 1980 and 1991, funding for direct operations of the Institute increased 112.6 percent. It also notes that in addition to the direct appropriation, the Institute receives revenue for tuition, which is increasing by $250 per student in 1992, and fundraising, which includes interest from the Federal endowment. NTID estimates that these increases will generate $200,000 in new non-appropriated revenue, but the department estimates that the increase for tuition alone should be in excess of $300,000. How, exactly, did NTID arrive at the figure of $200,000?

Answer: The Institute did not provide an explanation of how the $200,000 figure was derived. However, multiplying the 1991 enrollment figure of 1,105 by the $250 increase in tuition provides an increase of $276,250. The additional 35 students NTID projects for 1992 would provide extra revenue from tuition of $116,690. NTID projects that the 35 additional students will all be from foreign countries, which would provide $58,345 more. The total increase in funds from tuition would thus be $451,285.

NTID is also planning to raise the room rate beyond the level shown in the justification for fiscal year 1992. Both Gallaudet and NTID subsidize the room and board charges for their students, but have been moving in the direction of charging actual cost at the urging of the Department. Currently NTID subsidizes its room rate by $573 in order to keep its total charges for tuition, room, board and fees approximately equal to Gallaudet's. In its original submission for fiscal year 1992, NTID projected that the subsidy would decrease to $459. NTID is negotiating with the Department to totally eliminate that subsidy in 1992 as an emergency measure to help make up for a possible shortfall in funding in 1992. The increase would cause NTID's total charges to be nearly $600 or seven percent higher than Gallaudet's and 14.8% higher than in fiscal year 1991.

NTID does not expect that the increased cost will cause students to choose Gallaudet over NTID for reasons of price. In addition, this action would generate approximately $800,000 more revenue for 1992 than what is currently being projected for 1991. However, the Department has expressed concern over the potential impact that such a significant increase in room charges may have on parents and third parties. A phase-in would make the change more palatable and easier to accommodate. NTID is concerned that the increase may increase the burden for families that already have suffered undue hardship due to their son or daughter's disability. However, NTID notes that the rate increases have generated progressively more revenue each year, and that revenue from students is nearly $4,000,000 more than it would have been if rates had not gradually increased. So far, the Institute contends that the increases have not had any measurable effect on its ability to recruit new students. However, NTID believes it is reaching a threshold, but needs to take this action as a safeguard to provide for contingencies.

## MAINSTREAMED STUDENTS

Question: Students who received their secondary education at mainstreamed schools comprised 67 percent of students admitted to NTID last year. How does this compare to previous years?

Answer: The Institute states that this rate is about the same as it has been for the last 10 years. Before that, it averaged about 40 percent. With the passage of Public Law 94-142, the Education of All Handicapped Children Act, NTID began seeing greater numbers of mainstreamed students.

## CROSS-REGISTERED STUDENTS

Question: Twenty-two pereent of NTID's students are enrolled in RIT programs along with hearing students. How does this compare to previous years?

Answer: More and more deaf students are going into baccalaureate programs in the other colleges of RIT. The percentage of those students has increased from 16 percent in 1986 to 24 percent in 1991. NTID believes that this is a very positive sign for its academic programs and students. It notes that this is especially important because, for the 70 percent of them that will graduate, their earnings will be only 10 to 15 percent less than their hearing counterparts.

## INTERNATIONAL CONGRESS ON THE EDUCATION OF THE DEAF

Question: In July and August of last year, NTID cohosted with Gallaudet and the Rochester School for the Deaf the 17th International Congress on Education of the Deaf. What was achieved through that event?

Answer: Over 1,600 persons from 69 different countries registered for this Congress, with over half of the individuals from countries other than the United States. A particular emphasis was placed on what is being done in developing countries in the education of deaf people and conversely on what strategies and technologies America is employing to enhance accessibility to education for deaf people. Representatives from those countries were very grateful for such attention. The Congress traditionally is held only once every five years; so such opportunities for the world-wide exchange of information about education of the deaf are very rare.

In addition, the International Congress was of direct benefit to deaf individuals and educators throughout the world, in that they had the opportunity to learn about the most elaborate array of visual and audio communication technologies ever assembled for the benefit of hearing impaired persons. The Congress also established new linkages for the training of international students through NTID's internship program, and the cooperative graduate program with the University of Rochester which trains educational specialists to work with deaf students.

## COST OVERRUNS ON CHEMICAL STORAGE VENTING SYSTEM

Question: Included in your request for new construction monies is $50,000 for projected cost overruns on the installation of a chemical storage room venting system. The projected cost of this project was $59,000 in 1990, and work on it had not yet begun at the time of your request. Isn't it presumptuous to be predicting almost a 100 percent cost overrun on a project not yet underway?

Answer: The original project was initiated in September of 1987 at an expected cost of $3,500 to simply replace the chemical storage cabinets in room 60-1741 (the explosion room). This room is used to store chemicals such as acids and bases used in the Medical Technologies program. These chemicals require the use of specially constructed cabinets. Because of a recent history of code changes regarding the use, storage, and disposal of chemicals, it became necessary for RIT Physical Plant and Campus Safety to become involved in a review of the plans. Their input suggested that the difficulties faced in this particular project exceeded the on-campus expertise and an outside engineering firm was hired to develop an approach that would be consistent with existing codes. The cost for this engineering effort added an additional $2,500 to the project.

The engineer's first attempt at a solution called for a modification of the existing ventilation system in the room. This was a somewhat straightforward job. Subsequent analysis, however, showed that modification of the existing building air system could not be done in such a way as to meet codes which required direct ventilation to the outside of the building. The engineer estimated that about $50,000 would be needed to accomplish the project. This included the engineer's fees, the cabinets, a system for pressurizing the room, a means of venting air directly to the outside of the building, and the necessary environmental monitors and alarm systems. This was the basis for the original budget request for the project of $55,000.

After additional consideration and digging through codes, the engineer determined that direct venting to the outside of the building was not sufficient. Instead, the venting had to occur well above existing building height. At this point several alternatives were reviewed and rejected such as relocation of the storage room to the third floor, elimination of chemical storage, and construction of a separate structure for storage of chemicals. The alternative settled on was to continue to use the existing room and place two special chemical vent pipes, one for acids and one for bases, traversing the west facade of the building from the first floor to above the roof. At this point the engineer indicated that he would prepare a revised formal cost estimate and drawings, but indicated informally that the job would "probably be more than double the previous estimate of $55,000." This is the source of the additional $50,000 that was placed in NTID's construction request. This information was not previously provided to the Department and the modification was inappropriately described as a cost overrun, rather than a revision to the plan. NTID is expecting the final engineering study to be completed by the end of April 1991. At that time it will have a more complete picture of the costs and schedules for the project.

# GALLAUDET UNIVERSITY

## QUESTIONS SUBMITTED BY THE SUBCOMMITTEE

### CONSTRUCTION

Question: It was understood at the outset of this project that the Federal Government would pick up half of the tab, $7.5 million, and Gallaudet would seek matching funds from outside sources. To date, Gallaudet has committed only $1.5 million to this project, mostly reallocated from other operations funds, and has raised only $145,000 from outside sources.

Dr. Jordan, do you still believe that you can match the Federal contribution to this project through private fundraising?

Answer: While the Department of Education remains committed to the goal of providing $7.5 million in matching funds for this project, the Department is concerned that Gallaudet may not be able to raise the full amount of the funds and that this could greatly increase the Government's financial commitment after construction has already commenced. The performance of the University in raising only $145,000 intensified these concerns. The Department is also concerned that Federal funds provided for ongoing maintenance and specified projects not be reprogrammed to match the special appropriation for construction. The Department recommended extending the project period to four years in order to give Gallaudet the additional time it needs to get its capital campaign off the ground.

In turn, Gallaudet points out that it stated at the outset of the planning for this project, that it was the University's goal to raise as much of the funds for this project as possible from private sources. However, it has several other alternatives for obtaining the matching funds, including reprogramming plant funds that have been saved during recent years and/or through the assumption of debt. It is the University's belief that these continue to be viable options. Gallaudet also believes that the timing of the capital campaign with the downturn of the economy has contributed to its difficulties. Nevertheless, the University is confident that a substantial part of these funds can be raised privately and has reaffirmed its commitment to obtaining the needed funds from some combination of these sources.

### DEVELOPMENT EFFORTS

Question: Dr. Jordan, last year you stated that Gallaudet's immediate goal with reference to private giving was to increase the then current level of $2.5 million annually to $3.5 million.

Has that goal been reached?

Answer: Gallaudet has not been able to reach that goal. The University attributes this to the severe downturn in the economy. As a result, private giving to Gallaudet in the latter part of fiscal year 1990 and the first part of fiscal year 1991 has been disappointing. The University anticipates that as the economy rebounds, its prospects will improve greatly for the latter part of fiscal year 1991 and for 1992. At present, Gallaudet is talking with several potential large prospects about the Hall Memorial Building project and several bequests are contained in wills that are in probate, so it is difficult to predict the level of success in the near term. In addition, the University has applied to the Kellogg Foundation for a grant to support the construction of a Center for Training and Development and expects to hear from the Foundation in the near future.

Gallaudet also has received Federal funding for the Endowment Matching Grant program since 1988. It has matched the full amount appropriated for each year. The Federal Government provided $976,000 for the endowment for fiscal year 1991.

## ENDOWMENT MATCH PROJECTION

Question: Dr. Jordan, what amount do you think Gallaudet is capable of matching in FY 1992?

Answer: The University believes that the $1 million figure continues to be an appropriate level for the Endowment Grants program.

## OLDER AMERICANS WITH HEARING LOSS

Question: Dr. Jordan, we talked about this last year, but I want to visit the issue again to emphasize the importance I attach to it. We are an aging nation. There is going to be a rapidly increasing number of older people experiencing hearing loss.

Is Gallaudet doing anything that will directly or indirectly help these people--those who maybe aren't able to come to your summer Elder Hostel--to cope with their hearing loss?

Answer: The elder hostel program continues to be very successful. In addition, Gallaudet has other programs underway that are relevant to this population. During fiscal year 1991, it is planning to conduct a number of workshops and conferences targeted at older deaf people in their communities. So far, the sites that have been chosen include: Miami, Florida, sponsored by the Gallaudet regional center at Flagler College and the National Council on the Aging; Washington, District of Columbia, sponsored by the Gallaudet University Regional Center; Scranton, Pennsylvania; sponsored by the Gallaudet College for Continuing Education and Marywood College; and Santa Fe, New Mexico, sponsored by Gallaudet and the Plaza del Monte Conference Center. In addition, the University is conducting a number of research programs designed to assist this population. These programs include demographic research, assessment of assistive technologies, and coping strategies for adults who become deaf and their families.

## COMPUTER EQUIPMENT UPGRADE

Question: Digital Equipment Corporation has granted Gallaudet an interest free loan of $2.8 million worth of state-of-the-art computer equipment developed uniquely for Gallaudet. I understand that through various grants and discounts, Digital is offering this equipment to Gallaudet for $850,000--30 percent of the list price.

What are some of the unique qualities and uses of these computers?

Answer: The new equipment was just released in the fall and is considered to be state-of-the-art. It will be used for many purposes, including electronic mail, telecommunications, and educational purposes.

Question: Have they helped to stimulate students to write?

Answer: The most significant impact that the computers will have on the educational process is to provide for improved response time. Gallaudet has discovered that computers used as interactive writing tools can have a significant impact on the literacy skills of deaf students by promoting the practice of written communication. A critical element in the success of computers for this purpose is that response time be short. This is time that a student must wait for his or her written communication to enter the system and be responded to. The longer the response time, the less effective the computer is as a tool for written communication. With the older computing equipment, Gallaudet found that the response time became unacceptably long as the number of users increased. The new equipment has resulted in major improvements in response time.

Question: What will you do if you do not receive Federal funds to purchase the computers?

Answer: Gallaudet has identified two potential options. The first would be to return the equipment to DEC. The University's agreement with the vendor provides that this could be done without penalty. The second option would be to try to find other funding to support the purchase.

## EFFORTS TO INCREASE LITERACY LEVELS

Question: The University has identified depressed literacy levels of deaf students and adults as one of the most important issues facing the field of deaf education. You plan to dedicate funds to institutional research on barriers to literacy.

Until this research can be completed, what is Gallaudet doing to address this problem?

Answer: In addition to providing direct services for students, the University is conducting several ongoing research and development projects relevant to this issue through its research institute. For example, recent Gallaudet efforts include research on the state-of-the-art in writing assessment for deaf and hard of hearing students, a longitudinal study of three cohorts of hearing impaired students in public high school programs, the application of a process-oriented writing program for hearing impaired children in public schools, a writing strategy for deaf children with English as a second language, a pilot study on computerized procedures for gathering data on the reading and writing processes of deaf students, and the contributions of topic familiarity and syntactical knowledge to differences in the reading performance of skilled and average deaf readers. In addition, Gallaudet has received a number of competitive grants and contracts from governmental and private sources to conduct research related to this area. One such project focused on using artificial intelligence to teach English to deaf people. This issue also is the primary focus of the Kendall and Model schools and Gallaudet's preparatory program at the University level. However, the University believes that there is a need for increased attention to this problem. The University proposed two research topics related to this area in its fiscal year 1992 budget request to the Department of Education. The first was a study of effective communication practices in classrooms involving deaf students in higher education, and the second was a longitudinal study of factors predictive of high academic achievement.

## REPETITIVE MOTION INJURIES

Question: Dr. Jordan, we have heard much from NTID on repetitive motion injuries and the impact they have had on that institution. In fact, we provided NTID $600,000 last year to address what was considered an emergency situation on their campus.

We don't hear from you on this issue, and I'm curious why.

Answer: To date, this has not been a major problem at Gallaudet. Repetitive motion injuries are a particular problem for interpreters. However, the University has very few interpreters on staff. Only two employees have suffered a disability as a result of this syndrome. One reason for this is that most interpreting at Gallaudet is handled by independent contractors. The University expects that the problem may increase in coming years and will add to the cost of providing interpreter services.

## FOREIGN STUDENT SUBSIDY

Question: The Department continues to oppose subsidization of the cost of educating foreign students at Gallaudet. These students comprised almost 13 percent of total enrollment at the University in 1989. The Department argues that, among other things, we're discouraging the development of higher educational opportunities in foreign countries, and helping foreign governments avoid the responsibility for educating their citizens.

Do you believe this is true?

Answer: The University does not agree with the Department's position. Gallaudet believes that it would be very difficult for other governments to duplicate the educational program that Gallaudet is able to offer, particularly in smaller or poorer countries. This is because deafness is a very low incidence condition, and the cost of providing effective higher education for deaf students is very high.

The Department agrees that it is highly unlikely that many countries would choose to create a separate university for its deaf students with the range of programs available at Gallaudet.

However, that does not mean that these countries could not create programs within their existing higher education systems specifically for persons who are deaf. Approximately 147 colleges and universities within the United States provide special programs for students who are deaf without special Federal funding. Gallaudet estimates that approximately 3,000 deaf students attend these programs. However, other countries will not have an incentive to create similar programs as long as it is cheaper and easier to send their students over here. It is the obligation of these countries to educate their citizens. While able to take advantage of our educational system, foreign deaf students are missing the benefits of the societal context and contacts that domestic education provides.

Unlike the foreign enrollment at Howard University, the vast majority of the foreign students at Gallaudet come from Canada and Europe. The diversity created by the admission of foreign students is a benefit to Gallaudet's students and the University's prestige. However, the United States should not be providing an across-the-board subsidy to students from wealthy countries when there are many deaf persons in the United States that have no service options. Gallaudet can establish a scholarship program for those who are truly in need using endowment or other privately donated funds. Countries such as Japan and Israel are considering programs of their own. Canada sends over 150 students per year to Gallaudet. This is a large enough number of students to justify creation of a program in that country.

## FOREIGN STUDENT SURCHARGE

Question: The Department supports adoption of a surcharge for foreign students equal to the average out-of-state tuition assessed by public universities: in-state charges plus 135 percent. Gallaudet presently charges foreign students 50 percent more than U.S. students. But this arrangement with the Department is due to expire this year, and Gallaudet will have to meet with Department officials to discuss future surcharges.

What do you think is a fair surcharge for foreign students?

Answer: Gallaudet notes that foreign students are already paying a 50 percent surcharge. This surcharge is added to a base tuition that has quadrupled during the past decade. The University contends that the base tuition rate for U.S. students is now among the highest compared to in-state tuition rates at public universities and colleges. Therefore, imposition of a 135 percent surcharge above this basic rate would result in a tuition rate much higher than that paid by the average out-of-state student at public universities. The University's projections indicate that the current 50 percent surcharge places foreign students at Gallaudet approximately at the same dollar rate now as the average out of state student at a public university. As the question notes, Gallaudet will be meeting with Department officials to resolve this issue.

The Department believe there are several factors to consider in establishing comparison bases for the University. Gallaudet is funded much like a public institution, but operates like a small private school. Gallaudet uses a group of elite private colleges for the purpose of comparing educational and general expenditures. Tuition at these schools is about 200 percent more than that charged by Gallaudet. Gallaudet uses eight area colleges and universities for the purpose of setting faculty and staff salaries and benefits. Average tuition at these institutions is approximately 100 percent higher than that charged by Gallaudet, including tuition at Howard University. The Department believes that if we retain the landgrant institutions as a basis of comparison for tuition purposes, the 135 percent differential these schools charge out-of-State and foreign students is a reasonable proxy for calculating the surcharge. Even at this rate, the Federal Government would be subsidizing over two thirds of the educational costs of foreign students at Gallaudet.

Question: What is the average annual Federal subsidization of a foreign student attending Gallaudet?

Answer: Gallaudet asserts that, because of marginal cost considerations, the real subsidization of these students is small. Five years ago, GAO calculated the average educational cost for all students, excluding unique services, at $15,941. Minus tuition, the subsidy for direct educational costs was about $13,907. According to Gallaudet's calculation of the average educational cost per student using the method employed in the General Accounting Office study of Gallaudet, the University estimates the current average annual educational cost minus the tuition and required fees paid by these students at about $11,000 per student. Gallaudet currently has 304 foreign students enrolled at the University. This translates to a subsidy of $3,344,000.

## FUNDING NEEDS

Question: The Department has requested level funding for operations in anticipation of increases in non-appropriated revenue the University would receive as a result of increases in tuition, room, board and fundraising, and in anticipation of savings the University would realize due to reductions in total staff.

Will you in fact be able to offset the effects of inflation through increases in non-appropriated revenue and savings from staff reductions?

Answer: Gallaudet does not believe that the increases in non-appropriated revenue and savings from staff reductions will be adequate to meet all needs. The University plans to use savings from staff reductions to support merit pay programs and to reestablish budget flexibility which was limited because of what it perceives as slow growth in Federal appropriations. The University's most recent estimate is that it will require an addition to the Federal appropriation of about $3 million to fund the compensation increase that would be needed to keep up with the inflation rate of the past two years.

## PERCENTAGE OF EMPLOYEES WHO ARE DEAF

Question: What percentage of Gallaudet employees are deaf?

Answer: Approximately 31 percent of all Gallaudet employees are deaf, and about one third are members of minority groups. This latter percentage mirrors the composition of the Washington Metro area according to the latest U.S. census figures.

Question: How does this compare with the last five years?

Answer: As a benchmark, Gallaudet uses the figures submitted in the report to the Commission on Education of the Deaf in 1987. At that time, about 25% of Gallaudet's employees were deaf.

## PERCENTAGE OF FACULTY AND STUDENTS WHO ARE MINORITIES

Question: What percentage of Gallaudet students are minority versus faculty?

Answer: About 13 percent of the total Gallaudet faculty are members of minority groups. Regarding students, the equivalent figures are 13 percent for University students, 43 percent for Model Secondary School for the Deaf students and 68 percent for Kendall Demonstration Elementary School students.

Question: Please describe for us your recruitment program for minority and disabled persons.

Answer: Gallaudet is proceeding with implementation of an affirmative action plan that it believes will be a model for improving the hiring, promotion, and retention of employees who are deaf, disabled, members of minority groups, and veterans. The plan has been reviewed by the University's legal counsel, and Gallaudet expects to fully implement the plan by the end of fiscal year 1991. The University points out that the statistics discussed above indicate that it already has a good track record in this regard, but it hopes to further improve. To improve its ability to recruit minority students, Gallaudet employs recruiters who are themselves members of minority groups. In the future, additional recruiting trips are planned to maximize the effectiveness of these recruiters.

## AMERICANS WITH DISABILITIES ACT IMPLEMENTATION

Question: Dr. Jordan, you requested, and the Department rejected, $250,000 for additional staff for the National Center for Law and the Deaf to respond to potential requests for legal action related to implementation of the Americans with Disabilities Act, and for various other Departments to develop and disseminate materials on the implications of ADA for the employment of deaf people.

Why can't existing staff perform these functions?

Answer: According to Gallaudet, existing staff at the National Center for Law and the Deaf are fully committed to other tasks. They would have to reduce their commitment to other functions, which are also considered to be vital by the University, in order to respond to the demands placed upon them by the Americans with Disabilities Act.

Question: What function would Gallaudet be performing that the Department of Justice or EEOC cannot?

Answer: Gallaudet believes that, as the world's leading center on deafness, it is naturally looked to as the primary source of information and advice on matters pertaining to the legal rights of deaf people. The focus of University efforts related to the Americans with Disabilities Act and, in particular, those of the Law Center, would be uniquely targeted on the effects of the law on the lives of deaf people. The University believes that no other organization or agency, public or private, has the resources or commands the national respect that Gallaudet does in this regard.

## CONSOLIDATION OF THE PRE-COLLEGE PROGRAMS

Question: The Department has called for the consolidation of the Model Secondary School for the Deaf and Kendall Demonstration Elementary School into a single line item. This is to increase administrative discretion.

What do you calculate would be the total savings, through increased flexibility in the use of personnel and resources, and decreased bookkeeping and other administrative burdens, to result from this consolidation?

Answer: The University states that, as it understands the recommendation, the programs would continue to operate as separate entities, but the funding would be combined into a single account. Gallaudet supports the recommendation and believes that it would lead to increased flexibility in budgeting and financial management. The University does not anticipate that any significant savings would result from the consolidation.

## MASTER'S DEGREE IN SOCIAL WORK ENROLLMENT

Question: Gallaudet introduced a new master's degree program in social work in school year 1989-90. What has been the enrollment in this program during its first two years of operation?

Answer: In the fall of 1989, eight students were enrolled. This number increased to 12 in school year 1990-91.

## EMPOWERMENT OF PERSONS WHO ARE DEAF AND BLACK

Question: Last year, Gallaudet co-sponsored a first-of-its-kind conference on the empowerment of black deaf persons. What were some of the lessons of that conference?

Answer: This conference took place in New York in April of 1990 and was a first-of-its-kind two-day national conference, co-sponsored by Gallaudet University and Lehman College of the City University of New York. The goal of the conference was for each participant to leave the conference with a clear understanding of what empowerment means and strategies for self-empowerment and community empowerment. Participants included both professionals and consumers who are part of the Black Deaf Community and others interested in the issues of empowerment and advancement within this community. The conference was attended by 150 people. A new organization, the Coalition of Black Professionals in the Field of Deafness, was established. Three chapters are currently in place across the United States.

## SUBCOMMITTEE RECESS

Senator **Harkin**. Thank you all. The subcommittee will stand in recess to reconvene at 10 a.m., Thursday, March 21 in room 192 Dirksen. At that time we will hear testimony from a number of the related agencies, ACTION; Federal Mediation and Conciliation Services; Railroad Retirement Board; Federal Mine Safety and Health Review Commission; NLRB; and OSHA Review Commission to name a few.

[Whereupon, at 11:15 a.m., Tuesday, March 19, the subcommittee was recessed, to reconvene at 10 a.m., Thursday, March 21.]

# DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES APPROPRIATIONS FOR FISCAL YEAR 1992

---

THURSDAY, MARCH 21, 1991

U.S. SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS,
*Washington, DC.*

The subcommittee met at 10 a.m., in room SD–192, Dirksen Senate Office Building, Hon. Tom Harkin (chairman) presiding.

Present: Senators Harkin, Specter, and Gorton.

## ACTION

### STATEMENT OF JANE A. KENNY, DIRECTOR

### ACCOMPANIED BY GARY KOWALCZYK, COMPTROLLER AND ACTING ASSOCIATE DIRECTOR FOR MANAGEMENT AND BUDGET

#### OPENING REMARKS OF SENATOR HARKIN

Senator HARKIN. Good morning. The Subcommittee on Labor, Health and Human Services, Education, and Related Agencies will come to order this morning.

We will hear testimony from 8 of the 15 related agencies on this jurisdiction of the subcommittee.

First will be the ACTION agency, followed by Federal Mediation and Conciliation Service, the National Mediation Board, the Railroad Retirement Board, the Federal Mine Safety and Health Review Commission, the National Labor Relations Board, and the Occupational Safety and Health Review Commission.

Jane Kenny, the Director of ACTION is our first witness. I understand you are requesting $198.5 million for fiscal year 1992, an increase of $7.2 million or about 3.8 percent over last year, specifically requesting a 16-percent increase for VISTA, a 33-percent cut in the special volunteer programs, level funding for the Older American Volunteer Programs, a 4.2-percent increase for inspector general, and a 7.5-percent increase for program administration.

Ms. Kenny, please introduce your colleague who is with you and summarize your opening statement. I would appreciate it.

I will leave the record open at this point for any statements that Senator Specter has. And I would yield to my friend from Washington, Senator Gorton.

Senator GORTON. I am ready to hear the witness.

Senator HARKIN. Thank you. Ms. Kenny, please proceed.

### INTRODUCTION OF ASSOCIATES

Ms. KENNY. Mr. Chairman, accompanying me at the hearing is Gary Kowalczyk, who is our Comptroller and also the acting associate director of ACTION for management and budget.

Mr. Chairman and members of the committee, I am pleased to appear before you today to discuss the fiscal year 1992 budget request for ACTION. With your permission, Mr. Chairman, I have a statement that I would like to have inserted into the record. I will summarize the key points in that statement.

### BUDGET REQUEST

The request totals $198.6 million, an increase of $7.3 million or 3.8 percent above amounts available in fiscal year 1991. With these moneys in fiscal year 1992, ACTION will carry out its fundamental mission to stimulate voluntary citizen participation in community based efforts to meet the needs of the poor, the disadvantaged, and the elderly.

In fiscal year 1992, ACTION's programs will support approximately one-half million diverse volunteers who will engage in a wide variety of programs and projects such as home care for the elderly, literacy enhancement, drug abuse prevention and education, assistance for at-risk youth, and housing projects for low-income families.

### VOLUNTEERS IN SERVICE TO AMERICA

Turning to our specific programs, for VISTA our request of $35.8 million, an increase of $5.5 million or 18 percent, will support, first, 3,200 volunteer service years, second, an average subsistence allowance at 105 percent of the poverty index, third, increases in the stipend for volunteers from $90 to $95 per month, and fourth, 1.5 percent of available sums to expand public awareness and recruitment activities.

In addition, the VISTA budget includes increases for expenses related to the health contract for volunteers and continues the training expansion initiated in this fiscal year. Our budget for the Literacy Corps will support 440 volunteer service years in fiscal year 1992, the same level as in fiscal year 1991.

### STUDENT COMMUNITY SERVICE PROGRAM

We are proposing $976,000, the same level as in fiscal year 1991 for the Student Community Service Program. ACTION is committed to tapping volunteer resources found among the Nation's youth. And this program is a proven and effective vehicle for accomplishing this goal.

Grinnell College, located in your home State, Mr. Chairman, is an excellent example of a successful project established with a Student Community Service Program grant. Now in its third and final year of ACTION funding, the Grinnell Community Service Center coordinates student volunteers and community needs at 15 work sites. In fact, I am pleased to report that today one out of every four students at Grinnell participate in some type of volunteer activities. That is an excellent result for a minor investment of $30,000 of Federal funds.

### DRUG ALLIANCE

Our budget also includes $1.451 million for the funding of grants to combat drug abuse through volunteer programs. These grants are awarded to nonprofit organizations engaged in addressing the serious problems of illicit drug abuse, primarily among at-risk youth in low-income communities through voluntary efforts.

### OLDER AMERICAN VOLUNTEER PROGRAMS

For the Older American Volunteer Programs, we are requesting $123.9 million, the same amount as is available in fiscal year 1991. In general, we will support the same number of projects and volunteers as in fiscal year 1991. With this level of funding, our budget provides moneys to support a stipend increase for low-income senior volunteers from $2.35 to $2.40 per hour in both the Foster Grandparent and the Senior Companion Programs.

### INSPECTOR GENERAL

In fiscal year 1992, we are requesting $1 million and 12 positions for the Office of the Inspector General.

For program administration, we are requesting $30.4 million, an increase of $2.1 million above prior year amounts. The increase reflects a level that is essential to assure sound administration of ACTION programs and to continue the increased support provided by Congress last year for administration.

In that regard, Mr. Chairman, I would like to take this opportunity to thank you. I learned from my parents that you should be quicker to say thank you than you are to say please. Last year, in fact, you did support our request for an increase in program administration funds.

As a result of the increase we received, among other things, we have been able to increase our field travel by 40 percent, add 13 recruitment positions for the VISTA Program, and significantly increase participation in training conferences for both our projects and our volunteers. So your support of our efforts have not gone unnoticed. And they will greatly enhance the product of our agency, I am confident, not only this year but in the years to come.

### PREPARED STATEMENT

Last, with regard to the fiscal year 1992 budget we have submitted, the increase reflects a level that is essential to assure sound administration of ACTION programs and to continue the increased support provided for us. The increase will cover mandatory cost increases, mostly in the areas of personnel and benefits as well as support the agency at a full-time equivalent level of 438 positions.

Mr. Chairman, that summarizes ACTION's budget request for fiscal year 1992. I would be pleased to answer any questions that the subcommittee may have.

[The statement follows:]

## STATEMENT OF JANE A. KENNY

Mr. Chairman and members of the committee, I am pleased to appear before you today to discuss the fiscal year 1992 budget request for ACTION.

Our budget request totals $198.6 million, an increase of $7.3 million, or 3.8 percent, above amounts available in fiscal year 1991. With these moneys in fiscal year 1992, ACTION will carry out its fundamental mission to stimulate voluntary citizen participation in community-based efforts to meet the needs of the poor, the disadvantaged, and the elderly.

This budget request reflects the Administration's commitment to fostering voluntarism across the Nation, including the creation of public/private partnerships to address the needs of local communities. ACTION, through support of established programs and encouragement of local volunteer efforts, will continue to challenge all Americans to use their energy, innovative spirit, experience and skills to the fullest advantage to address critical needs of communities and the Nation.

In fiscal year 1992, ACTION's programs will support approximately one-half million diverse volunteers—old and young, low income and financially able, stipended and non-stipended, full-time and part-time, students and workers—who will engage in a wide variety of programs and projects, such as home care for the elderly, literacy enhancement, drug abuse prevention and education, assistance for at-risk youth, and housing projects for low income families. As in the past, the programs we support will be defined, developed and implemented by local communities, thereby assuring that their needs are being addressed.

ACTION's basic goals, as reflected in the fiscal year 1992 budget, are as follows: (1) Provide leadership as the Federal domestic volunteer agency by expanding and promoting voluntarism nationwide; (2) develop and sustain standards of excellence in existing programs; (3) develop greater financial self-sufficiency of ACTION funded programs; (4) develop, test, and promote innovations in voluntarism; (5) enhance systems for volunteer recruitment, training, and placement; and (6) enhance and enrich the quality of life of ACTION funded volunteers.

I will now summarize the major components of the budget.

### VOLUNTEERS IN SERVICE TO AMERICA (VISTA)

For VISTA, our request of $35.8 million, an increase of $5.5 million, or 18 percent, will support a number of planned changes: 3,200 volunteer service years, an increase of 278 above the anticipated fiscal year 1991 level of 2,922 and an amount equivalent to the minimum floor established in the Domestic Volunteer Service Act of 1973, as amended, for fiscal year 1992; increases in the subsistence levels for individual volunteers to provide an average subsistence allowance at 105 percent of the poverty index for a single individual; increases in the stipend for volunteers from $90 to $95 per month; and provision of 1.5 percent of available sums to expand public awareness and recruitment activities.

In accordance with the Domestic Volunteer Service Act Amendments of 1989, the 3,200 volunteer service years under the VISTA program will increase the size of the regular program by over 22 percent over a 3-year period, fiscal year 1989-92. Further, when combined with the VISTA Literacy Corps, the volunteer service years supported within VISTA will total 3,640 in fiscal year 1992.

In fiscal year 1992, the subsistence allowance under the VISTA program will be raised to an average of $609 per month, an increase of $43, or 7.7 percent, above the level provided in fiscal year 1991. In accordance with the Domestic Volunteer Service Act of 1973, as amended, individual allowances are adjusted to reflect differences in the cost of living in various parts of the country.

The increase in the stipend, from $90 to $95 per month, will increase the amount a volunteer completing an assignment after twelve months of service will receive—from $1,080 to $1,140.

For public awareness and recruitment activities, we anticipate spending $537,000 in program funds in fiscal year 1992. We will use these monies to implement a newly developed marketing plan for the VISTA program, where we are targeting to increase the number of recent college graduates who become VISTA Volunteers.

In addition, reflecting escalating costs in the health industry, the VISTA budget includes increases for expenses related to the health contract for volunteers. Further, our budget proposes to continue the enhanced training begun in fiscal year 1991. We continue to believe that this additional training is essential if we are to provide projects with Volunteers having up-to-date skills who are capable of providing high quality service.

As in the past, VISTA Volunteers will focus their efforts on the needs of low-income people, including projects designed to address the problems of at-risk youth, illiteracy, unemployment, hunger, substance abuse, and homelessness.

### LITERACY CORPS

We propose an increase of $309,000, or 7 percent, to provide greater support for existing volunteers, including the same increases for subsistence allowances, stipends, and public awareness as are requested for other VISTA Volunteers. Our budget will support 440 volunteer service years in fiscal year 1992, the same level as in fiscal year 1991.

Volunteers under the Literacy Corps program will serve as mobilizers and catalysts in recruiting and training community volunteers to provide tutoring and other literacy promoting functions. As in the past, volunteers funded by the regular VISTA appropriation will also participate in literacy projects.

### STUDENT COMMUNITY SERVICE PROGRAM

We are proposing $976,000, the same level as in 1991, for the Student Community Service Program. ACTION is committed to tapping volunteer resources found among the Nation's youth, and this program is a proven and effective vehicle for accomplishing this goal. Unlike any other Federally funded programs directed at students, the Student Community Service Program supports volunteers who receive no remuneration or tuition assistance and provide assistance only to low-income communities.

Under this program small grants are given to colleges, universities, secondary schools, and non-profit organizations to act as a stimulus in the promotion of student volunteer activities. Students direct their volunteer activities to address the needs of low-income individuals in the community in which the institution is located.

### SPECIAL VOLUNTEER PROGRAMS

Our budget includes $1.451 million for the funding of grants to combat drug abuse through volunteer programs.

These grants are awarded to non-profit organizations engaged in addressing the serious problems of illicit drug abuse, primarily among at-risk youth in low-income communities, through voluntary efforts. Self-help programs include illicit drug abuse education and prevention activities.

ACTION's drug abuse program is an integral part of the Administration's overall effort to curtail substance abuse. In the aggregate across all of our programs, ACTION expects to spend approximately $11.1 million for this activity in fiscal year 1992, an increase of $150,000 above the estimated amount in fiscal year 1991.

### OLDER AMERICAN VOLUNTEER PROGRAMS

For Older American Volunteer Programs, we are requesting $123.9 million, the same amount as is available in fiscal year 1991.

Within this level funding, our budget provides moneys to support a stipend increase for ACTION-funded, low-income volunteers, from $2.35 to $2.40 per hour, in both the Foster Grandparent and Senior Companion Programs. Moneys to support this stipend increase are available within an overall level budget in fiscal year 1992, because the appropriation for fiscal year 1991 contains one-time funding for the fiscal year 1991 stipend increase for non-ACTION funded volunteers.

The Domestic Volunteer Service Act of 1973, as amended, authorizes an hourly stipend of $2.50 for fiscal year 1992, subject to the availability of funds to maintain the same number of volunteers as in the prior year. Within available funding, we are proposing to maintain the same number of volunteers as in fiscal year 1991, and then to increase the stipend to $2.40 per hour. As the Committee is aware, the stipend was increased from $2.20 to $2.35 in fiscal year 1991.

In fiscal year 1992 we are requesting $33.4 million for the Retired Senior Volunteer Program (RSVP), $62.9 million for the Foster Grandparent Program (FGP), and $27.6 million for the Senior Companion Program (SCP). RSVP promotes voluntarism among retired Americans and uses their skills in projects important to the community. FGP supports low-income seniors in providing one-to-one assistance to children with special or exceptional needs. SCP provides older low-income seniors the opportunity to provide personal assistance and companionship to older persons with physical, mental, or emotional impairments which put them at risk of institutionalization.

In fiscal year 1992, under these programs we will continue certain initiatives contained in the Domestic Volunteer Service Act Amendments of 1989, including: (1) Carrying out programs of national significance, where funds are spent on certain national priorities, and (2) Earmarking $250,000 on promotional activities. We will support these initiatives at the prior year level.

In addition, ACTION will continue to explore partnerships with other agencies and organizations in order to carry out the purposes and intent of the Older American programs. For example, in fiscal year 1990 we entered into an agreement with the Administration on Aging (AoA) to undertake a joint effort in the Senior Companion Program to assist seniors 80 years of age and older. Grants under this effort will require matching funds from private sector sources.

### INSPECTOR GENERAL

In fiscal year 1992, we are requesting $1 million and 12 positions for the Office of the Inspector General.

Funds will be used in fiscal year 1992 to carry out an audit plan and to conduct investigations as required. Audits will focus on Agency operations as well as any particular issues that may arise with respect to grants and contracts.

### PROGRAM ADMINISTRATION

For Program Administration, we are requesting $30.4 million, an increase of $2.1 million above prior year amounts. The increase reflects a level that is essential to assure sound administration of ACTION's programs, as well as to carry out certain recruitment and public awareness functions contained in the 1989 Amendments to the Domestic Volunteer Service Act. The increase will cover mandatory cost increases, mostly in the areas of personnel and benefits, as well as support the Agency at a full-time equivalent level of 438 positions, a level consistent with the hiring plan being conducted in fiscal year 1991. Hiring will occur primarily in the regional and state offices to enhance program development, the recruitment of volunteers, and project monitoring.

The request for Program Administration also provides staff travel funds at the same level as that available in fiscal year 1991. These moneys are necessary to carry out VISTA recruitment and training responsibilities, project monitoring trips, and training conferences. Moneys are also requested to implement a new payroll/personnel/project information system to support VISTA Volunteers.

Mr. Chairman, that summarizes ACTION's budget request for fiscal year 1992. I am available to answer any questions that the Subcommittee may have.

### OLDER AMERICAN VOLUNTEER PROGRAMS

Senator HARKIN. Thank you very much. Again, let me thank you for your very good stewardship of the ACTION agency and the fine job you have been doing there. We appreciate it very much.

Senator Gorton, I know you have to leave for other committees. Do you have any questions?

Senator GORTON. I echo your statement about the quality of the operation and the importance of the operation. I have no questions.

Senator HARKIN. I have a couple of questions about the Older Americans Volunteer Program. As you know, people are living longer, the older population is growing every day. A lot of them are healthy and they want to volunteer. I see it all the time when I go out and I am sure you do too. The administration has promoted that, also.

And, yet, for the Older American Volunteer Program it is flat or maybe even a cut, I do not know, flat funding. I suppose we could take into account inflation as probably a little bit of a cut, I suppose.

Again, I just want to know how you can justify that in light of the fact that these volunteers, for a very small expenditure of money, they do a lot of good work out there and they want to do it. But they just need a little bit of support sometimes in these programs. And I am sure you have seen the benefits of this program, like I have.

I just wonder if you would want to comment upon that aspect of your budget, the Older American Volunteer Program.

Ms. **Kenny**. Senator, I would like to state that first and foremost, there is nobody that has a greater awareness of the benefits that are derived from these programs than the ACTION staff. We see it every day and it serves as an inspiration to us.

Our decisions with regard to our fiscal year 1992 submission were solely budgetary. We are faced with a situation, as a result of the Budget Reform Act and other difficulties facing us financially, that has caused us to give serious review to our submission.

I can say that collectively, over the last 2 years, the ACTION agency has received an increase of over 13 percent in its appropriation. So, over a 2-year period, we are ahead, rather than behind most Federal agencies.

With regard to the specific budget that we submitted for fiscal year 1992, I would have to say that one of the overriding considerations in preparing this budget was the requirements in the Domestic Volunteer Service Act Amendments of 1989. There are many requirements in the VISTA Program which mandated that we submit a budget asking for increases.

When we had to weigh those requirements against the overall impact on the budget, it put us in a position where, except for the VISTA budget, in practically all cases we had to maintain current level of services. Consequently, we do have a significant variance between the VISTA budget and the OAVP section. But it is primarily driven by the requirements in the Domestic Volunteer Service Act.

Senator **Harkin**. So you are saying that act is what drives the budget allocations?

Ms. **Kenny**. That is correct. Our amount of discretion is very limited.

There is one other thing I would point out with regard to the Older American Volunteer Programs. In perspective, I think it should also be noted that over the last decade the ACTION agency's budget has increased by 25 percent. Within that same time period, the Older American Volunteer Programs budget has increased by 39 percent. So, although this year it is obviously not getting an increase in relation to the VISTA budget, when they are compared together, historically, the Older American Volunteer Programs have received considerable increases, especially over the last 3 years.

### SENIOR COMPANION PROGRAM

Senator **Harkin**. What I just said about the Volunteer Program, also I would say about the Senior Companion Program. I am sure your response is the same on that, also.

Ms. **Kenny**. Yes. One thing related to that, Senator, I think you should know. Since 1987 the Senior Companion Program has been increased by more than 47 percent. That program has grown the most significantly of all the three Older American Volunteer Programs. But that is not to say that the need is not also great.

Senator **Harkin**. What was last year's funding for the Senior Companion Program?

Ms. **Kenny**. For fiscal year 1991, the Senior Companion Program was funded at $27,569,000.

Senator **Harkin**. And again, when we get into these things, I know a 47-percent increase sounds like a lot, but when you start with zero and you go to one, that is an infinitum.

Ms. **Kenny**. One thing related to that increase should also be noted with regard to the unexpended balances. The increase was so steep that we were not able and still are not able to achieve the full volunteer capacity that has been appropriated. The Senior Companion Program continues to have a large unexpended balance. We still have a significant number of senior companion projects that are not operating at their full capacity because of start-up difficulties.

Senator **Harkin**. That is something that I can understand.

So if you have a problem in getting the volunteers out there, it seems to me that that would push you more towards asking for some more money to get them out there to help them, rather than level funding.

Tell me what you just said again.

Ms. **Kenny**. I am saying that senior companion projects are not able to use all of the money they are receiving. We have a significant portion of unexpended balances that are coming back to the agency and being redirected to one-time funding activities that are in keeping with the mission of the program.

Say hypothetically we give a grant to a project in Iowa and it provides funds to place 60 volunteers. Because it is a new project, it takes a while for them to get established and to recruit those volunteers. Right now, we have a significant number of projects such as the hypothetical one in Iowa where, even though they have been awarded funds to place 60 volunteers, they are only able to recruit 30, 40, or 50 volunteers.

Part of the reason for the difficulty in recruitment is the serious nature of the volunteer work they do. To have a low-income senior volunteer commit to provide 20 hours a week of service to a homebound elderly person, to receive the amount of training necessary, and to be able psychologically to do the types of assignments this work calls for, takes an exceptional senior. And, again, that is all the more reason why we should commend them for the work they do. But the recruitment and placement of such volunteers require considerable expertise within the geriatric community in which these volunteers serve.

Senator **Harkin**. Are you doing anything? What are you doing, I should say, to increase recruitment? Do you have some programs out there?

Ms. **Kenny**. I am pleased to tell you that we are having a national Senior Companion Program conference. In fact, it will be taking place within the next month here in Washington. It is cosponsored by both ACTION and the University of Maryland Center on Aging. It will be 5 days of training that will deal with a number of issues, but one of them will be recruitment activities among seniors.

## VOLUNTEERS IN SERVICE TO AMERICA

Senator HARKIN. That is very good. Could you also tell us, in terms of VISTA, what are you doing through the media, television, radio, magazines, newspapers to heighten public awareness of volunteer opportunities in VISTA? Or is your budget too low to do that? Do you have funds to advertise?

Ms. KENNY. In the authorizing legislation for the Domestic Volunteer Service Act, it does provide that 1.5 percent of the VISTA program appropriation will be directed to marketing and public awareness activities. And for this fiscal year, including Literacy Corps, that accounts for approximately $524,000. For next year, in the 1992 budget, it will be approximately $611,000.

In order to fully meet the intent of Congress with regard to increased VISTA marketing and recruitment of recent college graduates, we have done a number of things. The most significant was to award a contract last fiscal year in anticipation of this increased amount of funding. The contract had three phases to it.

The first phase was to conduct a survey, both on college campuses and among current and recent former VISTA volunteers, to determine what is was about the program that appealed to them and what would cause them to make the decision to be a VISTA volunteer.

Based on that data, the second phase of the contract was to develop a marketing plan specifically targeted toward recent college graduates. We have just received that plan from the contractor and are in the process of seeking out an ad agency to implement it.

The plan includes doing a considerable number of campus visits, developing new posters and brochures, running ads in national magazines such as Time in the college issue, and increasing visibility with college placement and finance offices concerning our opportunities for service.

I would say that we are making a lot of progress. One other thing related to that, which goes back to the increase you approved for us in the program administration budget last year, is we now have 13 additional positions on the ACTION staff that are devoted solely to VISTA recruitment activities. We expect to have all of those people placed by April. Their placement is a major achievement and I think we will see some real results from their efforts.

Senator HARKIN. Did you just mention anything about public service announcements?

Ms. KENNY. Yes.

Senator HARKIN. Are you finding much support for that? It seems to me that rather than spending money, you can get radio and television stations to run these as public service announcements, right?

Ms. KENNY. We are going to run them on campus radio stations. We think that will be a much more targeted audience and it will be cost-effective.

Senator HARKIN. That is true.

Ms. KENNY. On targeted campuses, as well.

Senator HARKIN. Do any of the television stations around the country run these as public service announcements?

Ms. **Kenny**. No; we have not explored that. The findings were that it was not cost-effective because we could not determine when they would show it or how frequently they would show it. For the limited audience we are really trying to reach, it just was not cost-effective.

Related to that, Senator, I attended a briefing this week at the White House concerning a major media campaign that the Points of Light Foundation is about to initiate that will focus on the general issue of volunteerism. We are hopeful that one of the residuals of that initiative will be that it will help our programs as well.

### QUESTIONS SUBMITTED BY THE SUBCOMMITTEE

Senator **Harkin**. Ms. Kenney, we have some other questions that we will submit to you in writing. But I want to thank you for being here.

[The following questions were not asked at the hearing, but were submitted to the Agency for response subsequent to the hearing:]

# QUESTIONS SUBMITTED BY THE SUBCOMMITTEE

## OLDER AMERICAN VOLUNTEER PROGRAM FUNDING

Question: Ms. Kenny, older Americans are increasing by 1,670 persons per day. They're for the most part healthy and ready to become involved in volunteer service. Indeed, the Administration has called them to service. And yet, it has called for a cut -- because that is what a freeze is -- a cut in Older American Volunteer Programs for fiscal year 1992.

How do you justify this request for a cut in Older American Volunteer Programs in light of the Administration's purported emphasis on volunteerism?

Answer: When we assessed the overall budget within the resources available to the agency, we felt it important to meet the provisions in the 1989 Amendments to the Domestic Volunteer Service Act. Most of these reside in the VISTA program (i.e. service year floors, stipend and subsistence increases). For the Older American Volunteer Programs (OAVP) we felt that the most important increment at this time was to support whatever portion of the $0.15 authorized stipend increases we could afford within an overall level budget for these programs.

Furthermore, since 1987 the number of OAVP projects has increased (by 7 for RSVP, 12 for FGP, and 46 for SCP). We need to allow those projects to stabilize fully before attempting to add new ones. Over the last decade the total Agency budget has grown from $153 million to $192 million, an increase of $39 million, or 25%. During that same period, the OAVP budget has grown from $89 million to $124 million, an increase of $35 million, or 39%.

We are not saying that there are no needs in OAVP. However, on balance, given the legislative requirements and the history, we feel that the budget we have developed represents the best allocation of our limited resources.

Question: How would you beat the impact of inflation if the Older American Volunteer Programs were level funded? Would services be cut today?

Answer: Administrative costs can be accomplished through the use of unexpended balances from the preceding fiscal year or through adjustments achieved by allowing projects greater flexibility in allocating funds for administration and direct benefits to volunteers.

Projects will routinely submit requests for inflation of administrative costs as part of their application for grant renewal. It is possible that a portion of the unexpended balances from Fiscal Year 1992 can be used to cover projects' administrative costs on a one-time basis in 1992. Furthermore, state and local support may be used to cover administrative cost increases.

### STIPEND INCREASE

Question: The 1989 amendments to the Domestic Volunteer Service Act allowed Foster Grandparents and Senior Companions to receive a stipend of $2.50 an hour for FY 1992 and subsequent years. Your budget proposes to increase the stipend by 5 cents to $2.40 per hour in FY 1992 without a corresponding increase in appropriations.

How do you propose that the increase in stipends will take place without an increase in total funding available?

Answer: We are able to support a $0.05 -- from $2.35 to $2.40 -- within an overall level budget for the Foster Grandparent and Senior Companion Programs because of the one-time costs in 1991 for the stipend increase for non-ACTION funded volunteers, as well as the use of unexpended balances.

Question: For the record, please provide the level of funding that would be required for each program in order to provide a 5 cent, a 10 cent, and a 15 cent increase in the hourly stipend of both ACTION-funded and non-ACTION-funded volunteers for fiscal year 1992.

Answer: The Foster Grandparent Program would require the following level of funding for stipend increases of 5 cents, 10 cents, and 15 cents:

| Amount | Level of Funding | | |
|---|---|---|---|
| | ACTION | Non-ACTION | TOTAL |
| .05 | $ 956,000 | $ 134,000 | $1,090,000 |
| .10 | $1,912,000 | $ 268,100 | $2,180,100 |
| .15 | $2,868,100 | $ 402,100 | $3,270,200 |

The Senior Companion Program would require the following funding for increases of .05, .10, and .15:

| Amount | Level of Funding | | |
|---|---|---|---|
| | ACTION | Non-ACTION | TOTAL |
| .05 | $ 407,700 | $ 133,700 | $ 541,400 |
| .10 | $ 815,400 | $ 267,500 | $1,082,900 |
| .15 | $1,223,000 | $ 401,200 | $1,624,200 |

For both the Foster Grandparent and Senior Companion Programs, the funding required to provide a $.05 stipend increase for ACTION-funded volunteers is included in the President's Budget.

Question: Over the past 25 years, on those few occasions when a stipend increase has been authorized, it has always been fully funded.

What is the rationale for not increasing the stipend amounts to the fully allowable level of $2.50?

Answer: Today's budget constraints have necessitated a level FY 1992 budget request for each of the ACTION programs, except for the Drug Alliance Program where there is a reduction, and the VISTA Program where the increase is required to comply with the 1989 Amendments to the Domestic Volunteer Service Act.

Question: What level of funding in FY 1992 would be required for each program in order to provide the full 15 cent increase in the hourly stipend of both ACTION-funded and non-ACTION-funded volunteers?

Answer: A $0.15 stipend increase for ACTION volunteers would cost $2,868,100 for Foster Grandparents and $1,223,000 for Senior Companions. Increases for Non-ACTION volunteers would cost $402,100 in Foster Grandparents and $401,200 in Senior Companions.

Under our FY 1992 request the cost of the $0.05 stipend increase for ACTION funded volunteers ($965,000 for FGP and $407,700 for SCP) would be funded through funds freed up by one-time costs in FY 1991 and unexpended balances.

Total costs of a $0.15 stipend increase for both ACTION funded and Non-ACTION funded volunteers would be $3,270,200 for Foster Grandparents, or $2,314,200 above the current request, and $1,624,200 for Senior Companions, or $1,216,500 above the current request.

## DRUG ALLIANCE

Question: You've asked for a reduction in the ACTION Drug Alliance of $740,000, or 33 percent, and state that the cut reflects increased emphasis in ACTION's other programs for drug abuse prevention and education. I'm curious how you came up with $740,000. Is this the exact amount by which drug activities in ACTION's other programs would increase?

Answer: The reduction of $740,000 for the Drug Alliance program does not reflect the exact amount by which drug activities in ACTION's other programs will increase.

In fact, ACTION's other programs will increase by approximately $900,000 in fiscal year 1992.

Rather, the reduction of $740,000 represents the amount necessary to meet overall spending targets for the Agency, while at the same time meeting certain legislated responsibilities under the Domestic Volunteer Service Act, particularly with respect to the VISTA program, and maintaining current service levels for ACTION's other programs.

Drug Alliance grants are typically one-time monies for a discrete purpose, and there are almost no continuation grant costs involved in the program. Hence, there is some flexibility in determining the amount that may be earmarked for this activity in any particular year without affecting ongoing projects. This is not the case in a number of ACTION's other programs.

## DRUG-RELATED ACTIVITIES

Question: What are the drug-related activities in other programs that would be increased, and what is the cost of the increased emphasis in each case?

Answer: In general, the drug-related activities in other programs would increase to the extent that overall program activity is increasing. For example, a portion of the 278 volunteer service year increase under the VISTA program will be involved in drug-related activities.

In total, the overall budget increase for drug related activities for fiscal year 1992 is estimated at $160,000, with the following increases and decreases by program: VISTA: +$800,000; Drug Alliance: -$740,000; and Program Administration: +$100,000.

In addition, the Retired Senior Volunteer Program has established a three-year goal to increase to 10% the number of volunteers involved in educating seniors about the use, misuse and abuse of prescription drugs and over-the-counter medicines. [This effort is not included in the above budget estimates, as it involves the mistreatment of legal drugs.]

Question: How many additional volunteer service years will be devoted to drug abuse prevention projects in fiscal year 1992?

Answer: We estimate that the VISTA program will devote an additional 50 volunteer service years to drug abuse prevention projects in fiscal year 1992. We anticipate that other programs and projects will also spend increasing effort in drug abuse prevention and education activities, but we do not have an estimate of the number of service years that will be produced.

Question: What dollar amount does that represent?

Answer: Increased funding for drug abuse and prevention under VISTA totals over $800,000. Other increases total approximately $100,000. These increases are offset by the reduction of $740,000 for the Drug Alliance Program.

## RSVP PRESCRIPTION DRUG ACTIVITIES

Question: Ms. Kenny, you are aiming to have 1 out of 10 RSVP volunteers at the end of 3 years engaged in activities related to the prevention of the misuse of prescription drugs.

How widespread do you consider the abuse of prescription drugs? How does it compare, for instance, to the abuse of alcohol by seniors?

Answer: According to the Drug Abuse Warning Network, medical drug misuse causes more injuries and deaths each year than illegal, "street" drugs, with 60 percent of all drug-related emergency cases and 70 percent of all drug-related deaths resulting from prescription misuse.

Every year, 243,000 of the nation's elderly are hospitalized for adverse reactions to prescription drug misuse, which causes or worsens mental impairment in more than 163,000 elderly and kills some 30,000 elderly a year.

Mismedication of the elderly is a critical health issue. Studies find that from one-third to one-half of all elderly stop taking their medications too soon, take them at the wrong time and in the wrong amount. Medical misuse stems from ignorance about drugs. A Federal Drug Administration study found that 34 percent of the country's patients receive no information about their prescriptions, and, therefore, are unaware of common side effects, how long they can take their medications safely, and even the name of their medicines.

Although Americans over age 60 make up about 17 percent of the population, they account for nearly 40 percent of all hospitalizations and 30 percent of deaths from prescription drug misuse; two million elderly Americans, after using tranquilizers or sleeping pills for a year or more, become addicted to those medications; also, every year, 32,000 older adults fracture their hips in drug-induced falls.

Question: What are some of the activities that RSVP volunteers engage in to prevent prescription drug abuse?

Answer: Volunteers are engaged in a wide variety of activities from research to peer counseling. Examples include:
In Madison, IN, RSVP volunteers published Drug and Alcohol Abuse and Misuse in the Elderly, a 10-page booklet which includes information on the susceptibility of the elderly to medical drug misuse, symptoms of drug misuse, drug side effects and interactions, reducing costs of medicines and storing and keeping track of medicines. Volunteers distributed the booklet to RSVP groups and to local drug stores, senior centers, doctors and dentists' offices.

The Chillicothe, MO RSVP developed a skit to illustrate the following:

- Medicines, nicotine, caffeine and alcohol are drugs, with much potential for damage.
- Patients need to be aware of the specific benefits, side effects and directions for taking over-the-counter, as well as prescription drugs.
- Topical medications can be absorbed into the body and react with other medications.
- Many medications must be taken at a certain time, with water, on an empty stomach or under other specified conditions to be effective or safe.

Over 30 other states have requested scripts and volunteers are performing it around the country. Often local and/or retired pharmacists conduct question and answer sessions after the production. RSVP volunteers in Bucks County, PA co-sponsor the Medical Education for Seniors (MEDS) program with the Bucks County Drug and Alcohol Commission (BCDAC) and the Bucks County Area Agency on Aging. It uses older volunteers to help other senior citizens avoid medical drug misuse. Since the program's beginning two years ago 26 RSVP volunteers have made some 5,000 half-hour presentations to local senior groups. Four-day training sessions prepare the volunteers to make presentations. During training, the volunteers learn about drug issues from doctors and other specialists, study the family's role in prevention, and develop briefing and referral skills.

RSVP volunteers in Des Moines, IA coordinated an in-service training session for Foster Grandparents in that area where 77 pharmaceutical students from Drake University reviewed volunteers' personal prescription medications one-on-one and identified their potential for misuse/abuse.

Question: What about alcohol abuse among seniors? Are your programs addressing that?

Answer: ACTION is currently conducting an evaluation of the RSVP program to identify model prevention projects addressing alcohol and drug abuse. It is our intent to disseminate information concerning these model projects to other ACTION projects.

Current efforts include the one in Madison, IN, where RSVP volunteers published a 10 page booklet titled *Drug and Alcohol Abuse and Misuse in the Elderly*. Included is a section on alcohol abuse which lists misunderstandings about alcoholism in the elderly and discusses sources of help for the elderly alcoholic and ways to prevent the onset of alcoholism in the elderly. It also notes that of the 100 medications prescribed most often, more than half react badly with alcohol, with reactions ranging from drowsiness to liver damage to death.

Another example is the skit developed by the Chillicothe, MO RSVP which illustrated that:

- Alcohol is a *drug* with much potential for damage.

- Alcohol is the most commonly abused drug in the country, with 43 percent of male alcoholics and 31 percent female alcoholics over 50 years old.

- It is possible to become addicted to the alcohol contained in medications.

## ACTION/AOA INITIATIVE

Question: Last year ACTION provided $1.2 million to the Administration on Aging, which provided $750,000 of its own funds, for a joint initiative to involve more Senior Companion volunteers in in-home care activities. Please tell us how those monies were allocated and how many new Senior Companion volunteers will serve as a result of this initiative.

Answer: The final ACTION/AoA joint initiative actually resulted in ACTION providing $516,497 and AoA contributing $68,266 in the form of technical assistance in Fiscal Year 1991. Over the next two years, AoA will contribute an additional $354,751 to support grant activities and to provide technical assistance. Private sector support is also anticipated in fiscal years 1992 and 1993.

The funds were awarded to the eleven State Units on Aging (SUA). Each of the SUA's or local Area Agencies on Aging awarded a total of 16 sub-grants to existing Senior Companion project sponsors. This initiative should provide approximately 105 new volunteer service years to homebound elderly 80 years and older. As a result it is expected that these projects will be able to demonstrate innovative approaches aimed at seeking private sector support in order to continue the component at the end of the three year demonstration period.

This year ACTION provided an additional $25,839 necessary to pay these volunteers at the new hourly stipend rate, $2.35.

The Research Triangle Inc. of Chapel Hill, NC received an award of over $300,000 to conduct a three-year evaluation on the effectiveness of the projects in meeting the goals of this initiative.

## DISABILITY POLICY

Question: Recently, most of ACTION's sixty offices conducted self-evaluations to determine if practices, policies or physical barriers exist which could have the effect of excluding individuals with disabilities from participating in Agency programs conducted in those facilities.

What was the result of those self-evaluations and has action been taken to eliminate barriers to participation?

Answer: The handicap accessibility self-evaluations conducted by most of ACTION's Regional and State offices as well as the self-evaluation of the ACTION Headquarters building have been reviewed for physical accessibility. ACTION's Administrative Services Division has referred the findings identifying physical barriers to the General Services Administration, which is currently in contact with the Headquarter building's lessor to initiate corrective action to remedy the identified barriers. Physical barriers identified in Regional and State Offices will be referred to our Administrative Services Division for similar action.

In addition to the review of the self-evaluations for physical accessibility, a review for programmatic accessibility is in process and it is anticipated that results of the review will be available shortly.

Question: How many disabled volunteers does ACTION have?

Answer: There are approximately 50,000 disabled volunteers in the Agency's Older American Volunteer programs. Volunteers who have been so identified by their projects make up 10.1% of the Retired Senior Volunteer Program, 11.3% of the Senior Companion Program, and 10.4% of the Foster Grandparent Program.

Other ACTION volunteer programs do not gather information on volunteers by physical or mental disability.

Question: What efforts, if any, are being made to recruit disabled volunteers?

Answer: ACTION continues to support opportunities for persons from all walks of life to provide volunteer service.

Examples of ACTION-supported projects which involve persons with disabilities serving as volunteers include:

- A public-private partnership between the Senior Companion Program and the American Foundation for the Blind mobilizes visually impaired low-income seniors providing service to other visually impaired senior citizens. A total of 25 visually impaired Senior Companions are serving 32 clients in Detroit, MI; Pittsburgh, PA; El Paso, TX; and Salt Lake City, UT. ACTION supports this effort through a two year, $219,540 demonstration grant.

- ACTION's Drug Alliance awarded a grant to the Town of Johnston, RI, to develop a community-wide drug prevention program for disabled students, working through the school system and with summertime programs. Persons with disabilities and other community volunteers serve together in this effort.

- The Drug Alliance also supports two projects which mobilize hearing impaired volunteers, and other persons, to provide drug abuse prevention education to hearing impaired youth. In Spartanburg, SC, an ACTION grant to the South Carolina School for the Deaf enables the school to recruit and train an intergenerational group of teen-age and adult volunteers to educate hearing and visually impaired teenagers about illicit drugs. In Indiana, an ACTION grant to Fairbanks Hospital in Indianapolis supports a drug abuse prevention effort directed at hearing impaired persons in Indianapolis, Ft. Wayne, and Bloomington.

- Ten VISTA Volunteers are assigned to the Center for Independent Living of Southwestern Pennsylvania in Pittsburgh. These Volunteers, disabled themselves, have been working to increase the awareness of issues affecting the disabled and in developing an accessibility guide. One of the Volunteers provided technical assistance to SCP sponsors on accessibility at a recent national conference sponsored by ACTION.

## VISTA RECRUITMENT

Question: Last year, the Senate directed ACTION to publicize the availability of student loan deferments in all recruitment materials and information provided to potential VISTA volunteers. Can you assure the Committee that this is occurring?

Answer: The availability of student loan deferments is being made known in the following ways:

-A fact sheet describing the loan availability accompanies application forms sent to potential volunteers as part of the newly established Recruitment and Placement Office.

-A recruitment brochure and stand-alone flyer specifically publicizing the student deferment and forgiveness opportunities is being developed.

-A part of the training provided to VISTA supervisors during the Regional Training Conferences sponsored by ACTION includes a session on recruitment. A discussion of the benefits of volunteer service as recruitment inducements is included.

-An editorial for placement in 1,030 college newspapers in the Spring of 1991 includes reference to student loan deferments.

Question: In 1990, ACTION awarded a research contract to develop a marketing strategy targeted especially to raise public awareness of VISTA and increase recruitment within the college community. When will this plan be complete?

Answer: The VISTA marketing plan has been developed and accepted and will be implemented beginning in the fall semester of 1991. Highlights of the plan include a limited college newspaper advertising campaign on targeted campuses nationwide; placement of print ads in national publications both of a general and trade nature; development of new support materials that will include posters and flyers; and a focused direct mail effort to various college offices.

Question: What is ACTION doing in the meantime to raise its profile?

Answer: The following actions have been undertaken:

- A total of 154 campus visits were made by ACTION staff in 1990.

- VISTA promotional materials was mailed to schools, college placement office and public libraries.

- A VISTA advertisement has been placed in a magazine distributed to 250,000 college seniors.

- A contract has been awarded to the Campus Outreach Opportunity League to develop a training video for use by staff and VISTA supervisors in recruiting on college campuses.

- Follow-up information and applications were provided in response to the more than 2,000 telephone inquiries received via the agency's toll free number in 1990.

- A booklet marking the 25th Anniversary of the VISTA program, including an article on recruitment, has been printed and distributed.

- A technical assistance manual on recruitment entitled "The ABC's of Publicity" was reprinted this year.

- VISTA exhibited at the Campus Outreach Opportunity League national conferences in 1990 and 1991.

- The attractiveness of VISTA service was reinforced by President Bush during a White House ceremony commemorating VISTA's 25th Anniversary. A news release of this event reached approximately 800,000 viewers.

Question: Ms. Kenny, please tell the Committee what you are currently doing through T.V., radio, magazines or newspapers to heighten public awareness of volunteer opportunities through VISTA?

Answer: As mentioned earlier, a news release of the 25th Anniversary ceremony at the White House reached approximately 800,000 viewers. An advertisement was placed in a magazine distributed to 250,000 college seniors.

Question: Ms. Kenny, I have heard complaints that there is not enough being done in terms of on-campus recruitment. Are you going to campuses and setting up tables and handing out literature?

Answer: As mentioned earlier, 154 campus visits were made by ACTION staff in 1990. Promotional materials have been sent to schools and college placement offices.

## SENIOR COMPANION DIRECTOR

Question: In 1989, Congress required that ACTION appoint a separate Director for the Senior Companion program. My understanding is that this has not yet been done and that you have one person directing both the Senior Companion and Foster Grandparent programs. What is the cause of the delay in hiring a director for the Senior Companion program?

Answer: In June, 1990, in response to the Domestic Volunteer Service Act Amendments of 1989, ACTION established a separate position as Director for the Senior Companion Program. Due to budget constraints, however, we were not able to fill the vacancy at the time. In keeping with the intent of Congress, the highest priority in allocating staffing resources was given to vacancies in state and regional offices. Currently, the Assistant Director for Older American Volunteer Programs, not the Chief of the Foster Grandparent Branch, is serving as the Acting Chief of the Senior Companion Branch.

The competitive selection process for the Senior Companion Branch Chief position is now in progress and we expect to have the position filled by June.

The delay in filling a number of vacant positions within the Agency has been due in part to the reduced budget for program administration for the last several years. For fiscal year 1991, ACTION requested $29,171,000 for program administration; however, $28,301,000 was appropriated, a reduction of $870,000 below the request level. As a result, we have delayed filling a number of positions in fiscal year 1991.

## COMPUTERIZATION

Question: I understand that while use of computers was expanded somewhat in headquarters and regional offices last year, you have yet to fully computerize your operations. Employees in headquarters still don't have computers on their desks. Which of your programs at headquarters have been computerized and to what degree?

Answer: We have expanded the use of computers within the Agency over the last several years, subject to the availability of funds. Further, to the extent possible, we have acquired excess equipment from other federal agencies to help meet our needs in this area.

Today, the Agency has approximately 141 personal computers, or approximately one computer for every three employees. Within Headquarters, all organizations have been computerized to some degree and all regional and state offices have computers. At one end of the continuum, some offices may have only one computer while others (e.g. the Inspector General's office) will become fully computerized this year with state of the art equipment and software.

We should also point out that not all employees require a computer in order to perform their responsibilities. Nevertheless, we fully agree with the assertion that further automation of ACTION's operations is needed.

Question: What is your timeframe for fully automating your office?

Answer: We are currently updating a long-range automation plan, and will finalize the plan by the end of fiscal year 1991. We envision that the plan will include a three-year effort to automate ACTION's operations fully, including the installation of a new system to support VISTA Volunteers and projects. The plan will be subject to the availability of sufficient funds to accomplish this purpose. In the past, reductions to program administration funds have hampered the Agency's ability to automate its operations to the extent desirable.

## POLICY DIRECTIVES AND PROCEDURAL MANUALS

Question: What progress has been made in updating your policy directives and procedural manuals, such as grantee handbooks?

Answer: We have made significant progress in these areas over the last year: The "VISTA Handbook for Volunteers and Sponsors" has been rewritten to reflect current policies and procedures, and the three Older American Volunteer Programs handbooks have also been revised in 1988 and 1989 (RSVP in 1989, SCP in 1988, and FGP in 1989).

Overall, the directives system has been revised to include a redefinition of the categories of directives, a manual notebook system for maintenance, and a method for receiving and maintaining Federal Register publications. This revised system expedites the review process, creates a monthly tracking system to identify the progress of changes in the system, increases the responsiveness of the directive system to the Federal Register publication system, and establishes a method to control policy making memoranda.

By April 1, 1991, a total of 43 different directive actions had been completed in fiscal year 1991. This included 30 directives rescinded, nine directives revised, and four directives created.

VISTA ALLOCATION FOR FY 1991

Question: Given the earmarking of Part C money in P.L. 101-517, why did ACTION not request reprogramming out of Part B as opposed to Part C, as had been requested by ACTION in 1987?

Answer: The 1989 Amendments to the Domestic Volunteer Service Act amended Section 501(d)(4)(C) to require that if the Director determines that funds are insufficient to provide for the required minimum years of volunteer service, then "funds shall be reallocated to part A of title I of this Act from amounts appropriated for part C of such title prior to the reallocation of funds appropriated for other parts." It was on this basis that the Agency originally proposed to transfer monies from Part C, as opposed to Part B.

Based upon the response of the House Appropriations Subcommittee to the

Agency's proposed reprogramming, and after further review, the Agency has determined that the amounts available for VISTA, as well as for Part C, are the amounts stated in the 1991 appropriations act, and that no authority exists to reprogram these funds. The amount earmarked for VISTA in the appropriations act represents both a ceiling and a floor, and hence no monies may be reprogrammed to VISTA from other parts, including Part B.

Question: In order to meet the legislated service year floor of 3,000 service years in 1991, could certain savings have been effected within the fiscal year 1991 appropriations level for VISTA (e.g., delays in allowance increases, reductions in training, projects' support, etc.) that would have produced 3,000 VISTA service years without any reprogramming?

Answer: ACTION originally requested $31,569,000 for the VISTA program in fiscal year 1991 in order to support 3,000 volunteer service years. The appropriation for fiscal year 1991 provided $30,287,000, a reduction of almost $1.3 million. ACTION determined that this reduced funding level would support approximately 2,922 volunteer service years, and informed the Congress of this determination in a letter dated November 21, 1990.

In ACTION's judgement, the savings required to produce 3,000 service years in fiscal year 1991 within the final amount provided for VISTA were not desirable. For example, subsistence amounts could not be further delayed or reduced in light of the requirement in the Domestic Volunteer Service Act that VISTA Volunteers receive a minimum of 105 percent of the poverty level. Statutory provisions also determine stipend levels for volunteers and minimum amounts devoted to recruitment and promotion activities. Further, training and other program support functions are critical if volunteers are to provide the high quality of service and assistance expected by the sponsors requesting assistance.

Further, the House Appropriations Subcommittee report on the fiscal year 1991 appropriations bill indicated that the "Committee believes that more modest expansion [of volunteer service years] will allow ACTION to focus on improving the recruitment and training of volunteers, and enhancing the overall quality of the VISTA program."

## VISTA RECRUITMENT

Question: What is the specific number the agency has established as a 1991 goal for nationally recruited VISTA volunteers?

Answer: ACTION estimates that it will recruit approximately 2,500 new VISTA Volunteers in FY 1991 (VISTA and Literacy Corps). The agency does not make a distinction between local and national volunteers when establishing its annual recruitment goal.

The VISTA recruitment and placement procedures offer opportunities for both local and national placement of volunteers. With regard to national placements, the Administrator of Recruitment and Placement operates and maintains a current and comprehensive central information system that provides information to: 1) individuals with respect to specific opportunities for service as a volunteer; and 2) approved projects, with respect to the availability of individuals approved for service who are awaiting assignment. The agency will provide for the assignment of all eligible applicants, both local and national, to the maximum extent practicable, consistent with the abilities, experiences, and preferences of the applicants and the needs and preferences of the projects. Toward this end, the agency has recently created 12 additional staff positions to enhance its VISTA recruitment efforts.

Question: How many nationally recruited VISTA volunteers have applied since the start of this fiscal year and how many have been placed on projects?

Answer: As of 3/31/91 we have received 337 applications and placed 69 volunteers.

Question: What is the goal for nationally recruited VISTA volunteers in 1992?

Answer: The agency is currently developing its operating plan for FY 1992, and has not yet established a recruitment goal. That goal, which does not make a distinction between local and national volunteers, is contingent on the number of volunteer service years funded for FY 1992.

Question: What are you doing and how much are you spending to support direct one-on-one recruitment of VISTA applicants in 1991?

Answer: There is currently one professional staff member in each region who devotes 50% of his or her time to VISTA recruitment and placement activities. In addition, the national Administrator of Recruitment and Placement is in headquarters in Washington,DC. This fiscal year we expect to hire 9 full-time regional recruitment and placement representatives and three full-time staff in the new Recruitment and Placement Branch. Each region has budgeted $5,000 to be used exclusively for recruitment travel and related expenses.

Question: How much are you spending on indirect recruitment (e.g., advertising, media coverage, public awareness) in 1991?

Answer: In FY 1991, 1.5% of the VISTA and VISTA Literacy Corps budgets will be targeted on public awareness and recruitment, as required by authorization legislation. A total of $523,600 will be expended this fiscal year.

Question: How many VISTA volunteers have been recruited from an Iowa campus? At the University of Iowa, for example?

Answer: We do not currently record this type of information. We are developing a computerized system to track this kind of data in support of the Recruitment and Placement Office and expect it to be operational this year. Visits to Buena Vista, Grinnell, and Iowa Valley Community College have been made this fiscal year. The University of Iowa is one of 45 campuses nationwide that will be targeted for recruitment purposes as part of the marketing plan.

## VISTA LITERACY CORPS

Question: Ms. Kenny, prior to last year, your agency consistently proposed to terminate funding for the VISTA Literacy Corps. During those years, you complained to the Committee that you were having difficulty recruiting so many literacy volunteers and placing them evenly throughout the year. However, last year you asked for and received a hefty increase for the Literacy Corps. How successful have you been in recruiting the additional VISTA literacy volunteers this year?

Answer: The increase in volunteer service years for the Literacy Corps, as provided by the Congress for fiscal year 1991, represented approximately one-half of the increase requested by the ACTION agency for that year. Through the first six months of the fiscal year, nearly 50% of the total planned annual placements have occurred.

Question: We are almost halfway through the fiscal year. Do you now have on board all of the additional VISTA literacy volunteers you will need to generate the expected 34 percent increase in volunteer service years?

Answer: No. The Senate Report on the fiscal year 1991 appropriations bill states that "The Committee expects ACTION to continue to recruit, train, and place volunteers throughout the fiscal year." Consistent with this directive and as planned, we will continue to place additional volunteers during the remainder of the year in order to generate 440 volunteer service years.

Question: Are we going to see a bulge in the placing of literacy volunteers at the end of the year? If so, why?

Answer: No. As stated earlier, through the first six months we have already placed nearly 50% of the volunteers planned this year to generate 440 volunteer service years.

## PROGRAM ADMINISTRATION

Question: Ms. Kenny, your whole budget would go up only 3.8 percent, a cut in real terms, and you're likewise cutting the Older American Volunteer Programs, as well as the ACTION Drug Alliance. How then do you justify your request for a 7.5 percent increase in Program Administration?

Answer: When we assessed the overall budget within the resources available to the agency, we felt it important to meet the provisions in the 1989 Amendments to the Domestic Volunteer Service Act. Most of these reside in the VISTA program (i.e. service year floors, stipend and subsistence increases). For the Older American Volunteer Programs (OAVP) we felt that the most important increment at this time was to support whatever portion of the $0.15 authorized stipend increases we could afford within an overall level budget for these programs.

For Program Administration, we believed that given the growth in programs and the budget ceiling we faced, it was critical to maintain a current services level of effort. Therefore, our request for Program Administration represents a current services budget; we are maintaining the same number of staff and level of activity as the Congress approved in the prior year, recognizing the critical staffing and program administration needs of the agency.

Prior to FY 1991, for several years we maintained a very high staff vacancy rate in critical positions due to the need to absorb pay increases and uncontrollable cost increases within our support funding levels. This situation was mostly rectified in fiscal year 1991, as Congress approved additional positions for the Agency, including the hiring of 13 positions to staff the VISTA recruiting effort urged in the 1989 Amendments to the Domestic Volunteer Service Act.

Approximately 99 percent of the increase in our request for fiscal year 1992 is for personnel compensation and is designed to maintain the staffing levels approved in 1991. Almost $800,000 of the increase is for mandatory civilian pay increases; most of the rest represents the full year effect of the hiring we have undertaken this fiscal year, hiring that in some cases was postponed to later in the year due to the reduction below the level originally requested by ACTION for Program Administration funds in fiscal year 1991. The majority of these positions are in our field offices and represent staff who are necessary to provide oversight and technical assistance to our grantees and volunteers and support to our Agency's operations nationwide.

For these reasons, we believe that our request for Program Administration is fully justified.

SENIOR COMPANION PROGRAM

Question: Ms. Kenny, we have more frail elderly in my state of Iowa as a percent of the total population than just about any state in the country. So naturally, the issue of home-care is extremely important to me. With a burgeoning elderly population, it is an issue that we are going to have to face up to in the very near future.

The Senior Companion Program is one of the most cost-effective means of delivering vitally needed home care services. Our Senior Companion Program in Waterloo is helping nearly 300 frail elderly to stay in their own homes and out of expensive nursing homes.

Ms. Kenny, in light of growing need, and the cost effectiveness of this program, why are you proposing level funding?

Answer: We fully recognize the valuable contribution that Senior Companions make to those they serve and to their communities. Indeed, in fiscal year 1990 we implemented separate agreements with the Visiting Nurses Associations of America and the Administration on Aging to expand the activities of Senior Companion Program projects, including encouraging the growth on non-ACTION funds for these efforts.

Concerning the fiscal year 1992 budget, we considered several factors in recommending an overall level budget for the Senior Companion Program. First, in light of the overall budget ceiling, as well as the mandates in the Domestic

Volunteer Service Act, trade-offs were required. We believed it necessary to respond to the mandatory requirements in our authorizing legislation, particularly those related to the VISTA program.

Second, as I indicated earlier the number of SCP projects has increased significantly since 1987. We need to allow those projects to stabilize fully before attempting to add new ones. Indeed, as of the last grant reporting period, these new SCP grantees were spending at an effective rate of approximately 84% of their authorized levels, meaning that 16% of the available monies were not being used and the projects are not operating at full capacity.

Third, and finally, we felt that the most important increment at this time was to support whatever portion of the $0.15 authorized stipend increases we could afford within an overall level budget for these programs. That is why we have included a $.05 stipend increase for the Senior Companion Program within our budget request.

# FEDERAL MEDIATION AND CONCILIATION SERVICE

**STATEMENT OF BERNARD E. DeLURY, DIRECTOR**

**ACCOMPANIED BY:**
**BRIAN L. FLORES, DEPUTY DIRECTOR**
**MARY P. DURKIN, BUDGET OFFICER**

### BUDGET REQUEST

Senator HARKIN. Now we will hear from the Federal Mediation and Conciliation Service. The mission of the Service is to prevent and to minimize labor-management disputes having a significant impact on interstate commerce or national defense for all industries, with the exception of railroad and airline industries.

The fiscal year 1992 budget request for the Service is $28.1 million, an increase of $1.1 million over 1991. No funding is sought for labor-management cooperation grants.

Welcome, Mr. Bernard DeLury, the Director of the Federal Mediation and Conciliation Service. Your statement will be made a part of the record in its entirety, and if you can introduce your companions and summarize your statement, I would sure appreciate it.

### INTRODUCTION OF ASSOCIATES

Mr. DELURY. On my left is Brian Flores, who is Deputy Director of the Service—Brian is a 14-year career mediator with the FMCS—and on my right is Mary Durkin our budget officer, who has 21 years of service with the Federal Government and 18 years with the FMCS.

### PREPARED STATEMENT

Mr. Chairman, if you would like, in the interest of time, we could dispense with reading the opening statement. We are requesting is $1.1 million over last year's budget or an increase of 4 percent, for a total of $28,145,000, which we expect will cover a full-time equivalency of 315, 204 of which will be stationed in the field, and we hope to add to that number by approximately 20 mediators in 1992.

[The statement follows:]

### STATEMENT OF BERNARD E. DELURY

Mr. Chairman and members of the subcommittee, it is my pleasure to present to you the fiscal year 1992 appropriation request of the Federal Mediation and Conciliation Service. I would like to describe briefly the Service's mission, detail our work by program area, and outline our request.

### FEDERAL MEDIATION AND CONCILIATION SERVICE'S MISSION

The Service was established by Congress in 1947 as an independent agency to prevent or minimize interruptions of the free flow of commerce growing out of labor disputes and to assist parties to labor disputes in industries affecting commerce to settle such disputes through conciliation and mediation.

In addition, the FMCS mission statement calls for the development of sound and stable labor-management collective bargaining relationships, the advocation of collective bargaining, mediation and voluntary arbitration as the preferred process of settling issues between employers and representatives of employees, and the fostering of constructive joint relationships of labor and management leaders to increase their mutual understanding and ability to resolve common problems.

The Service's mission is accomplished through the following programs:

## DISPUTE MEDIATION

In 1992 there will be major contracts expiring in the communications (telephone and telegraph), electronic manufacturing, retail and wholesale food, utilities, construction, farm implements, wood products manufacturing, broadcasting, shipbuilding, hotel, entertainment and health care industries.

Issues in collective bargaining will include normal "lunch box" issues but will also include proposals from both sides of the table dealing with more difficult issues such as health care cost containment, pensions, management rights, mixed pay systems, pay for knowledge, merit pay and lump sums versus percentage add-ons to existing rates.

Health care cost containment is expected to be the single most difficult issue in negotiations. A recent survey has shown that the average company spent 21.6 percent more last year to provide doctor and hospital care to employees than the year before. Over the past two years, the cost to employers has risen 46.3 percent and it is estimated that the cost of health care consumes 25 percent of corporate profits annually.

Dealing with the health care and other contentious issues will place a severe strain on labor-management relationships and we expect to be actively involved in 7,000 dispute mediation cases in fiscal year 1992.

## PREVENTIVE MEDIATION

The mediator's involvement in the often highly stressful atmosphere of collective bargaining provides the ideal opportunity to assess the existing relationship between the parties. Preventive Mediation is specifically aimed at improving deteriorated employer-union relationships during non-crisis periods in the interest of avoiding future disputes. Through Preventive Mediation labor and management are introduced to methods of avoiding workplace strife and provided with training in approaches that alter previously hostile environments. Federal mediators will be involved in 1,400 Preventive Mediation cases in fiscal year 1992 and they will utilize a variety of approaches in problem identification and conflict resolution. Activities will include sponsorship of conferences and seminars, consultation and liaison, creation and expansion of labor-management committees, development of training modules, and use of our programs called Relationships-by-Objectives, Orientation to Labor-Management Initiatives, Partners-in-Change, and other non-adversarial or so-called "Win-Win" type assistance or training.

## ARBITRATION

Arbitration is used almost universally to resolve labor disputes arising out of the interpretation of collective bargaining contracts. In addition, arbitration is used as a substitute for strikes or as a method of resolving impasses in contract negotiations. The Service maintains a roster of qualified arbitrators and provides lists of arbitrators to labor-management parties. The parties then select an arbitrator to hear and decide their dispute. In fiscal year 1992 we expect to submit 33,000 panels of arbitrators to the labor-management parties.

## LABOR-MANAGEMENT COOPERATION PROGRAM

The Labor Management Cooperation Act of 1978 authorizes FMCS to carry out a program of grants and contracts to support the establishment and operation of plant, area, and industry labor-management committees. In fiscal year 1991 the Service will award 11 to 13 new grants, and approximately five extension grants will be issued to continue the work of grantees originally funded in fiscal year 1989. The Administration believes that in order for labor-management cooperation committees to be successful, they should be funded by the parties involved. Therefore, no funding is requested for new or extension grants in fiscal year 1992.

### RESOURCE REQUIREMENTS

Our appropriations request outlines in detail the challenges that the Federal Mediation and Conciliation Service is facing and the resources needed to accomplish our mission.

Our fiscal year 1992 Submission includes a full-time equivalent level of 315—the same as that funded in fiscal year 1991—and an appropriation of $28,145,000. I respectfully urge your favorable consideration of our request.

Mr. Chairman, I will be glad to respond to any questions you may have.

### LABOR-MANAGEMENT COOPERATION PROGRAM

Senator HARKIN. There is one area that we have been contacted by other Senators, and I understand there are some pending questions here that I would like to get on the record on the labor management cooperation grants.

The fiscal 1992 budget again proposes that the labor-management cooperation grant program be terminated, in spite of the fact that the program, I guess by all measurements, has been a very successful one. As a matter of fact, last year the Service testified to the fact that this program is extremely worthwhile. In your original budget submission, did you request funds for the continuation of this program?

Mr. DELURY. Yes, Mr. Chairman, we did. We requested them of the Office of Management and Budget.

Senator HARKIN. Can you tell us how much?

Mr. DELURY. We requested $3 million.

Senator HARKIN. The cooperation grants that we are talking about here are the ones that help establish these labor management councils?

Mr. DELURY. Yes, sir; that is correct.

Senator HARKIN. I can only tell you from my experience in Iowa, and actually along the border of Iowa and Illinois, too, that in every case where these have been started up they have just been tremendously successful reducing work stoppages, strikes—they reach agreements on package agreements sort of types of things. We have got two or three really successful ones in Iowa, and it seems to be equally supported by labor as well as management. Do you have any idea how many of these labor management councils started up last year? Are they growing? I mean, this is what the grants are for. Are we seeing an increasing usage of these, decreasing? What is happening to the labor management councils?

Mr. DELURY. Are you referring to funded committees, or the ones that just start up without funding?

Senator HARKIN. The new ones.

Mr. DELURY. Last year we funded 16 new grants, and awarded 12 continuation grants. I visited the Quad Cities Area Labor-Management Committee. They had about 200 people there from labor and management—a very successful program.

The instances of strikes are down. The cooperation between labor and management is up. We think they are very good programs. We encourage the parties to form industry committees together, or area labor-management committees, or plant committees at every opportunity with our field mediators, who serve as spokespeople for these types of preventive mediation programs.

Senator HARKIN. That is really the only area I wanted to cover. I wanted to get on the record your request on the grants and to let you know there is a great interest here in this subcommittee in not only continuing those but strengthening those, because we see them as a way of really increasing productivity and getting a job done in a better manner across the country. So we are going to take a very hard look at the funding for that.

I do not have anything else. Do you have anything else that you want to get across to us?

Mr. DELURY. We appreciate the support of the committee, Mr. Chairman, and we would like to reserve the right to come back to you from time to time and tell you about our activities and how well we are doing. We feel like you do, sir, that we contribute to the industrial peace and progress of the labor-management community in the United States of America.

### QUESTIONS SUBMITTED BY THE SUBCOMMITTEE

Senator HARKIN. I have no doubt about it. Thank you very much. There will be some additional questions which will be submitted for your response in the record.

[The following questions were not asked at the hearing, but were submitted to the Service for response subsequent to the hearing:]

# QUESTIONS SUBMITTED BY THE SUBCOMMITTEE

## PREVENTIVE MEDIATION

Question. What are your largest problems in the area of preventive mediation.

Answer. Preventive mediation is extremely time consuming and requires a large commitment of human resources. Our most successful preventive mediation activities spring from our dispute activity when the mediator discovers problems in the basic relationship between the labor-management parties which impede the collective bargaining process. Often during negotiations the parties realize that their relationship hinders them from making more of the process and agree to subsequent FMCS efforts to improve their ongoing relationship. Once the activity has begun with efforts to bridge the gaps in trust and communication between the parties, the most difficult problem then becomes maintaining the continuity of the effort from the inside, while slowly withdrawing FMCS service and allowing the parties to work on their own.

## COST-OF-LIVING

Question. The Service has requested an increase of about 4.1% or $1.1 million in FY 1992; however, if you consider that you are eliminating the Labor-Management Cooperation Grants Program and are still carrying forward that funding in your FY 1992 base, the increase becomes about $2.4 million or a little over 8.2%. Given the fact that under the budget agreement, we are looking at cost-of-living increases, why do you need a 8.2% increase?

Answer. The Summary of Changes section of the FMCS FY 1992 Appropriations Request (pages 3 and 4 of the Congressional Submission) shows the Service's needs for increased funding.

The largest increase in funding, $1,076,000, is needed to fully fund 315 full-time equivalents (FTE's). The second largest increase, $558,000, is needed to fund the mandated relocation of the Service's national office. The third largest increase, $238,000, is needed to cover the increased cost of field office space. There are other important increases listed in the Summary of Changes and we consider each to be vital.

## HEALTH CARE ISSUES

Question. The issue of health care is becoming an even greater issue in labor disputes than pay. How do you see the issue of health care impacting on contract negotiations?

Answer. FMCS mediators report that bargaining over health care is a primary issue in the large majority of cases they mediate. It is one of major importance in almost every case where a work stoppage has occurred in the last few years.

Percentage increases in the cost of providing health care to employees have far exceded the increases needed to settle wage demands.

The parties are beginning to state that the issue of providing no or low cost health care as an employee benefit can no longer be resolved at the bargaining table, and they cite the absence of the third-party payer in the process as the biggest single reason for this inability to bargain.

Attempts at cost reduction through benefit reduction or cost shifting from the employer to employee (especially where the changes are substantial shifts in policy) have provoked major labor and management confrontations in a wide variety of industries in both the private and public sector.

Parties have explored many avenues to escape these problems but there has been no sure method of dealing with the ever increasing cost of health care delivery. The strain on the collective bargaining process is as great as any we have seen in recent years.

## BARGAINING

Question. What are some of the problems you are facing in your current bargaining rounds? For example, could you tell us where do you currently stand with the Daily News strike or any other strikes that are afecting your workload?

Answer. The strike at the New York Daily News has ended, after its prospective new owner, Robert Maxwell, reached agreement with the News unions in mid-March.

FMCS was involved both before and during the 20-week strike at the News with each of the 9 unions represented by the New York Allied Printing Trades Council and the previous News management representatives.

Currently, our most visible strikes are at Ravenswood Aluminum in Ravenswood, West Virginia, where mediators continue to work with the parties for settlement, and at Food Barn Stores in the Kansas City, Missouri area. This strike began in the middle of February and fourteen-hundred members of the United Food and Commercial Workers Union are on strike.

The Service continues to work at getting an agreement to end the strike between Greyhound Bus and the Amalgamated Transit Union. This strike began March 2, 1990, at which time the company hired permanent replacements. The National Labor Relations Board subsequently found reasons to issue complaints of unfair labor practices against the company and hearings on those charges are now in progress.

## LABOR-MANAGEMENT COOPERATION GRANTS

Question. The FY 1992 budget again proposes that the Labor-Management Cooperation Grant program be terminated in spite of the fact that this program has been a very successful one. As a matter of fact, last year, the Service testified to the fact that this program is extremely worthwhile. In your original budget submission, did you request funds for the continuation of this program?

Answer. Yes, we requested funds for this program.

## ADMINISTRATIVE DISPUTE RESOLUTION

Question. In 1990, the Congress passed and the President signed the Administrative Dispute Resolution Act and the Negotiated Rulemaking Act of 1990. What impact will these new laws have on the Service?

Answer. The Administrative Dispute Resolution Act encourages federal agencies to use various dispute settlement techniques to resolve disputes prior to litigation. "Alternative means of dispute resolution," which are encouraged by this Act, include negotiations, conciliation, facilitation, mediation, factfinding, minitrials, arbitration, or any combination of these methods.

The Negotiated Rulemaking Act of 1990 authorizes federal agencies to add a new step to the rulemaking process prior to issuance of the proposed rule. This step is the negotiated rulemaking process--a committee is formed, consisting of representatives of the federal agency and representatives of all involved parties. These persons sit down together and try to reach a consensus on what the proposed rule will say. A "facilitator" or "convener" assists in these meetings. The purpose of the Act is to streamline the rulemaking process and avoid extensive and costly litigation.

The immediate effect of these two laws on FMCS has been that federal agencies are requesting information, consultation, dispute resolution systems design, training, and mediation. We have made every effort to meet the demand for these services.

Question. Will your work on Administrative Dispute Resolution offset or reduce the work of other federal agencies?

Answer. Yes, we believe that our work in the administrative dispute resolution (ADR) area will reduce the work of other federal agencies. Our longest running ADR project, the Age Discrimination Mediation Project, has reduced the Department of Health and Human Service's case backlog and the number of cases requiring full investigation. We believe that similar projects will produce similar beneficial results.

Question. How much funding is requested in the FY 1992 budget for Administrative Dispute Resolution work?

Answer. In FY 1992 the Service expects to receive $160,000 in reimbursable funds from other federal agencies for its work in alternative dispute resolution.

## OFFICE MOVE

Question. I note that you have requested $558,000 for an office move. What does this move entail and if the funding requested is insufficient, how do you plan to make up for the shortfall?

Answer. The $558,000 that is requested for the mandated national office move includes $440,000 for the increased cost of office space, $35,000 for communication charges, $16,000 for postage, $55,000 for office repairs and alterations, and $12,000 for printing costs.

If the $558,000 requested for this move is insufficient, FMCS will have to absorb the shortfall with "regular" funds.

## TRAVEL ALLOWANCE

Question. Your request for travel shows a decrease from FY 1991. How do you plan to carry out the mission of the Service with this decrease in travel funding?

Answer. Funds requested for FMCS travel in FY 1992 total $1,268,000, an increase of $30,000 over the FY 1991 travel allowance of $1,238,000.

The Service expects increases in travel during FY 1992 for field station assignments (+$20,000), official station transfers (+$2,000), and new mediator travel (+$18,000). FMCS expects an elimination of travel in FY 1992 for the Labor-Management Cooperation Project (-$10,000).

## PAY COSTS

Question. What effect has the executive pay increase and the geographic pay rates had on your agency, and how are you absorbing these pay increases?

Answer. To cover the costs of these pay raises, FMCS has diverted funds from other areas, primarily funds set aside for new mediator hiring. The FMCS full-time equivalent (FTE) level in FY 1991 has been reduced significantly from original staffing plans.

## DISPUTE MEDIATION

Question. What criteria does the Service use in entering dispute mediation cases?

Answer. FMCS involves itself in those disputes which have interstate implications and where work stoppages in those disputes would have substantial impact on interstate commerce.

In addition, negotiations that involve national defense or national security are assigned for mediation. Mediation is provided in all health care and federal sector cases. Mediation is also provided for state and local sector disputes in those states or jurisdictions where no viable mediation service exists. Generally, in non-health care cases FMCS becomes involved at the request of the labor-management parties.

# NATIONAL MEDIATION BOARD

**STATEMENT OF JOSHUA M. JAVITS, CHAIRMAN**

**ACCOMPANIED BY:**

**PATRICK J. CLEARY, MEMBER**
**KIMBERLY MADIGAN, MEMBER**

### BUDGET REQUEST

Senator HARKIN. We will now hear from the National Mediation Board concerning their fiscal year 1992 budget request. The Railway Labor Act as amended establishes the National Mediation Board whose principal goals are the determination of the choice of employee representatives and the mediation of collective bargaining disputes in the airline and railroad industries.

With us today is Mr. Joshua Javits, Chairman of the Board. The fiscal year request is $7,008,000, an increase of $494,000 over fiscal year 1991. Mr. Javits, on behalf of the subcommittee I welcome you today. We will put your statement in its entirety in the record, and if you would just summarize it we would sure appreciate it.

### INTRODUCTION OF ASSOCIATES

Mr. JAVITS. I will be happy to do so. It is a pleasure to be here. Senator, if I could, let me introduce my colleagues and members of the Board.

Patrick Cleary is on my right. He has been with the Board for more than 1 year and I had the pleasure of introducing him last year. Kimberly Madigan on my left is the newest member of the Board. She has been on the Board since August 1990. She has had 10 years experience as a practicing attorney under the Railway Labor Act dealing with railroads and airlines on both sides of the fence, management and labor, and we are very pleased to have her on the Board with us.

Mr. Chairman, members of the subcommittee, to summarize the submitted statement, the National Mediation Board is requesting an appropriation of $7,008,000 for fiscal year 1992, $494,000 more than is available for fiscal year 1991.

The primary functions of the Board under the Railway Labor Act include:

One, mediation in connection with collective bargaining and representation matters concerning employees in the railroad and airline industries. For this we are requesting $4,221,000.

Two, voluntary arbitration and the investigation of critical disputes through emergency Board procedures. We are asking $500,000 for this item.

Three, adjustment of employee grievances in the railroad industry. For this we are requesting $2,287,000 be appropriated for fiscal year 1992.

### PREPARED STATEMENT

This completes a brief summary of my statement. If you have any further questions, I would be more than happy to answer them.

[The statement follows:]

## STATEMENT OF JOSHUA M. JAVITS

MR. CHAIRMAN, MEMBERS OF THE SUBCOMMITTEE. Thank you for this opportunity to appear before your Subcommittee today regarding the National Mediation Board's budget for Fiscal Year 1992.

The total amount requested for Fiscal Year 1992 to administer the Railway Labor Act is $7,008,000, and a personnel complement of 58 positions.

The appropriation for the National Mediation Board is requested for expenses necessary to administer the provisions of the Railway Labor Act, as amended. This statute was designed to provide orderly procedures for the settlement of labor disputes in the railroad and airline industries, as well as to handle questions of employee representation and to administer the arbitration provisions of the Act.

When the Railway Labor Act was amended in 1934 it established the National Railroad Adjustment Board for the purpose of handling grievances arising under the terms of collective bargaining agreements in the railroad industry.

In 1966, the President signed Public Law 89-456, which further amended certain provisions of Section 153 of the Act. Under the Public Law, new grievances and those which have been on docket before the National Railroad Adjustment Board for a period of at least one year may be referred to local boards of adjustment. The purpose of this amendment was to reduce an overwhelming caseload of unresolved disputes pending before the National Railroad Adjustment Board.

The budget justification, as submitted, identifies the functions just discussed and the amounts requested for each. I would like to go over each one briefly.

### Mediatory Services

For mediatory services for Fiscal Year 1992, we are requesting $4,221,000, an increase of $448,000 over Fiscal Year

1991. These services include mediation relating to the making and amending of collective bargaining agreements, procedures relating to the selection by employees of their bargaining representatives, and a number of administrative duties consistent with statutory authority under the Act and related statutes governing railroad and airline labor disputes procedures. The Board foresees an increase in this activity largely due to the continuing effects of both airline and railroad deregulation, to mergers, to the proliferation of local bargaining after the completion of national railroad bargaining, and to the potential splintering of railroad carriers from national bargaining.

In the airline industry, where there was a significant slowdown before and during the Persian Gulf war, with some signs now of an upturn in traffic, there is a total of 41 contract negotiations scheduled for fiscal years 1991 and 1992. Nearly one-half of the total involve pilot groups but there also is a sizable number involving mechanics and related employees. Within the last month, the largest U.S. air carrier, American Airlines, and its pilots' union reached a new collective bargaining agreement through mediation after a very contentious and potentially volatile dispute. Some of the major ongoing mediation cases include pilot and flight attendant negotiations at United, and mechanics and related employee negotiations at TWA, as well as flight attendant negotiations at USAir.

Intense competition, as well as major financial problems that caused Continental and Pan Am in the past few months to file for Chapter 11 bankruptcy protection from creditors, will result in difficult contract negotiations. The National Mediation Board likely will be asked by the parties at most of the carriers whose contracts are amendable to help them reach peaceful settlements.

### Voluntary Arbitration and Emergency Disputes

The second activity of the Mediation Board relates to voluntary arbitration and the investigation of critical disputes through emergency board procedures. In the arbitration proceedings, disputes over contract formation are voluntarily submitted by labor and management to a neutral party for final and binding decision.

Emergency boards are created by the President pursuant to Section 160 of the Act. When the Mediation Board finds that a dispute not resolved in mediation threatens substantially to interrupt interstate commerce and to deprive any section of the country of essential transportation, it notifies the President who may, in his discretion, create an emergency board to investigate and make recommendations as to the settlement of the dispute.

Emergency Board 219, which was created last year by President Bush to investigate and report its findings on disputed issues in national bargaining between the 98 railroads and eleven major unions, submitted its report to the President on January 15 of this year. The National Mediation Board immediately began conducting public interest conferences with the parties in an attempt to reach settlements, using the emergency board's report to help facilitate negotiations.

Because of the complexity of many issues and the sheer number -- more than 200 -- of recommendations of the emergency board, all Board Members, assisted by staff mediators, are directly involved in these follow-up mediatory efforts.

These efforts have been almost continuous since the Emergency Board submitted its report. We are pleased to report that there has been some progress made and the parties in February agreed to a voluntary extension of the status quo until midnight April 16 from an initial statutory deadline of midnight February 14 to allow more time for negotiated settlements.

We remain hopeful that settlements can be reached prior to the new deadline. If settlements are reached with one or two large unions, that may set a pattern for settlements with the other unions. But it is impossible to predict the outcome of all the disputes. We are aware that representatives of some of the parties have been in contact with different members of Congress with the thought that, as in several cases in the past, Congress may be drawn into the dispute and possibly introduce legislation that might impose a settlement in order to avoid a disruption in national rail service.

The Northeast Rail Service Act of 1981 amended the Railway Labor Act by adding a special emergency dispute procedure for publicly funded and operated commuter carriers and their employees. Under this procedure, the President is required, upon request of any party to a labor dispute, or the Governor of the State affected, to establish possibly two successive emergency boards.

The Mediation Board is requesting $500,000 for these activities, $63,000 less than was available in Fiscal Year 1991. As in the past, we will continue to hold this amount in a special category and use it only for voluntary arbitration and emergency disputes. Any amount not needed for this purpose will lapse at the end of the year.

## Adjustment of Railroad Grievances

When the Railway Labor Act was amended in 1934, the National Railroad Adjustment Board was created to hear and decide disputes involving railroad employee grievances and questions concerning the application and interpretation of work rules. Administrative responsibility for fiscal management of the Adjustment Board was placed with the National Mediation Board. As indicated earlier in my statement, the Mediation Board administers Public Law 89-456, which amended certain provisions of Section 153 of the Railway Labor Act.

We are continuing efforts reported last year to reduce the number of grievance cases that has overburdened the system for many years. We feel we are making significant progress in bringing the caseload down to a more reasonable and manageable level.

The Board hopes to further reduce costs and improve the decision-making process through a variety of measures, such as continuing to encourage and facilitate the parties' establishment of special tribunals, with tripartite arbitration panels to decide rule disputes that arise frequently, and to use decisions which are rendered as binding precedent for future cases that are similar.

These and other steps we have taken and continue to pursue are designed to produce two main benefits: first, it will save costs for the parties to the dispute, as well as for the government; and, second, it will bring claims that must be arbitrated to speedier conclusion.

We must point out, however, that the Board has to use its powers of persuasion in virtually all of these matters, since there is no statutory authority to require compliance by the parties except in a few minor exceptions.

We do, however, expect continued cooperation of the parties in this initiative; cooperation is essential since the Railway Labor Act does not give the Board control over the number of cases submitted or resolved. Therefore, to provide uninterrupted arbitration services for the entire fiscal year, the Board requests $2,287,000 for the adjustment of railroad grievances.

This completes my statement. If you have any questions, we will be happy to answer them.

## MERGERS IN AIRLINE INDUSTRY

Senator HARKIN. Mr. Javits, it has been quite a rough year for the airline industry, with Pan Am, Continental, and Eastern either gone under or under some form of Chapter 11. Deregulation has had a major impact on the airline industry, and there have been many predictions we will see even more consolidations among carriers in the future.

Can you describe the effect the shrinkage in the number of carriers has had on the Board's activities, and the number of cases that you might forecast for next year?

Mr. JAVITS. The shrinkage in the number of so-called mega-carriers, or major carriers, rather, has not really affected the Board's caseload as a whole.

There are still approximately 150 commuter and regional carriers, 10 major and 9 national carriers, and even though some of the major carriers are in bankruptcy—3 of them—2 of those 3 are still operating, and so we still have the same approximate number of cases as we have had in the past.

The numbers of mergers that have taken place in the industry provides the Board with even more work than it ordinarily would have. As a result of mergers between any two airlines the Board is faced with representation questions—which groups of employees shall be represented by which unions if any—in the past they may have been represented by different unions or no unions at all on their individual carriers.

In addition, mergers provide the Board with collective bargaining mediation cases in which for each represented craft or class in the two airlines there is an attempt to negotiate a single contract bringing the two together. Those issues are very difficult, complex and very time-consuming, so in fact mergers provide the Board with more cases and more complicated cases rather than less, ironically.

In addition to there still being approximately the same number of airlines in the industry, and because they are going through as much trauma as they are economically at present, there is a great deal of fallout at the bargaining table. There are requests for concessions from the unions and resistance to that, and these very difficult cases we see are a result of the kind of instability we are seeing in the airline industry.

### RAILROAD NATIONAL BARGAINING

Senator HARKIN. I understand a new round of bargaining is going to begin between the National Railway Labor Conference and officials of the Railway Labor Executives Association. Is that so?

Mr. JAVITS. We are actually toward the end of the current round of national handling in the railroad industry.

Senator HARKIN. It has been going on a couple of years I guess, right?

Mr. JAVITS. It has been going on a couple of years. In fact, over the past several months we have had a Presidential Emergency Board which has recommended resolution of the disputes between virtually all the railroad unions and 98 carriers in the industry, and the National Mediation Board is attempting to mediate the resolution of those cases between the parties at this moment.

There is an agreement by the parties not to use self-help until April 17, and we hope to get agreements by then. If we do not, there is a possibility of a nationwide freight rail strike.

Senator HARKIN. When would that be?

Mr. JAVITS. Parties have agreed not to use self-help, to preserve the status quo, until 12:01 a.m. on April 17.

### OFFICE MOVE

Senator HARKIN. I understand—a little bit more mundane question here. I understand the Board's lease expires this year. Where are you located, anyway?

Mr. **Javits.** We are at 14th and K Street, in what is called the Passport Office Building, or people know it as that. That is where people go to get passports. The State Department's office is there.

Senator **Harkin.** I understand your lease expires this year and you are planning to move to a different location. Where are you going, and what is the status of that?

Mr. **Javits.** I believe our fate is in the hands of GSA as to where we will be going, but we intend to be in Washington, preferably in downtown Washington, since that is where the parties tend to congregate and we are an agency that has considerable interaction with the parties we deal with.

In addition, we have an office in Chicago which arbitrates minor disputes and railroad grievances under the Railway Labor Act and is headquartered in Chicago. However, because our computers are located in Washington, DC, and we have centralized much of the clerical duties associated with grievance handling, we intend to bring much of that activity to Washington, DC, when we move. Our lease is up next summer, the summer of 1992, and we hope to move at that time.

Senator **Harkin.** Mr. Javits, thank you very much. Do you have anything else that you want to give us a heads-up on that might be coming up in the next year?

Mr. **Javits.** If we get by the railroad problem we should have relatively clear sailing except for the fact that the industry, as I say—the airline industry—is in such economic trouble that it is a constant source of work and attention to us. It is a tough time for the transportation industry and we are certainly seeing the fallout, but we appreciate the committee's support and we will do our best to keep stability in the two industries.

### QUESTIONS SUBMITTED BY THE SUBCOMMITTEE

Senator **Harkin.** Thank you very much. There will be some additional questions which will be submitted for your response in the record.

[The following questions were not asked at the hearing, but were submitted to the Board for response subsequent to the hearing:]

# QUESTIONS SUBMITTED BY THE SUBCOMMITTEE

## NATIONAL BARGAINING

Mr. Harkin: It seems that some of the most contentious issues throughout this round of national bargaining have been health and welfare issues, just as they were back in the 1984-85 round of bargaining. What specific steps did the Board take to ensure that there would be timely resolution of these benefit issues?

Mr. Javits: The health and welfare issues in this round of national railroad bargaining are, in part, those that had been left unresolved after the 1984-85 round of bargaining. Those cases are identified by NMB case numbers.

In the negotiations of this current round, the parties agreed that the health and welfare issues would be resolved in this round. The parties also agreed that the health and welfare issues were included in the resolution of negotiations of wage and rule issues. The health and welfare issues were the first issues addressed in mediation and, with the agreement of the parties, were the first issues addressed by the Presidential Emergency Board. Full resolution of the health and welfare issues is expected as a result of the mutually agreed to process for resolving this round's disputes. At the present date, three unions have agreed to full settlements with the carrier including health and welfare issues. The parties may engage in self-help as of 12:01 a.m., April 17 if the remaining eight unions have not come to agreements.

## SPECIAL BOARDS

Mr. Harkin: Over the past few years, the NMB has attempted to reduce the caseload and increase the possibility of cost-savings through periodic reviews of the existing Special Boards of Adjustment. One of the new ways you are suggesting to reduce the number of incoming cases is through a pilot program to test the viability of a special tribunal in 1992. Can you describe this project and also elaborate on the other ways you have attempted to increase the effectiveness of the Special Boards of Adjustment?

Mr. Javits: The pilot program proposed for 1992 attempts to reduce the number of incoming cases by creating a special panel for deciding the more difficult issues. As proposed, this pilot program would require the parties to sign an agreement prior to filing a claim to be heard by a three-arbitrator panel. The agreement would provide that, if the three arbitrators issued a unanimous decision, that decision would establish a precedent between those two parties on the issue or issues involved, which would be in force until the collective bargaining agreement would be amended.

This pilot program is designed to complement the on-going NMB programs that encourage parties to consolidate claims and resolve issues on their own. Currently, the NMB requires that the parties number and code all cases before they are submitted to a section 153 tribunal. This has forced the parties to meet, discuss, and group cases by issue. As this process continues, it should reduce the number of claims filed and expedite the decision process.

When the last phase of NMB's database project is completed, the additional information on issues and their disposition will also help the parties resolve disputes. The Board will use the subject and decision codes to provide the parties with an issue index, which can be used as a basis for deciding claims without resorting to binding arbitration.

## INFORMATION SYSTEMS

Mr. Harkin: What improvements do you expect to see in the future when the last phase of the database project is completed in 1991?

Mr. Javits: When the last phase of the database project is completed the NMB will have the ability to track all arbitration cases filed under section 153 of the Railway Labor Act from filing through final disposition. This complete tracking of cases as they move through the arbitration process has not been possible before.

The NMB's automation system has improved management control of the railroad grievance adjustment program. Heretofore, the Board and the parties had no accurate data on the number or identity of the cases in the system. The automation system helps the parties to manage their own grievance settlements more efficiently. Using an issue index (developed by the NMB with the cooperation of the parties), the parties can identify cases with similar or identical issues. These cases can be grouped and resolved as one case, which may be used as a precedent. This consolidation process, facilitated by the NMB's issue index and case tracking system, will eliminate the need to arbitrate each case.

Mr. Harkin: Although the Board's information systems improvement effort was not classified as a "major" system acquisition when it began in 1990, I am interested in hearing how your automation plan allowed the Board to increase the efficiency of its operations. What have been the measurable benefits of this upgrade to date?

Mr. Javits: The Board's operations have been enhanced in several ways by its automation efforts. Areas of measurable benefits involve: the mediator scheduling system, which is used to track cases docketed by the Board and improve mediator utilization; the Federal Financial System (the standard general ledger) which the Board has accessed through timesharing with the U.S. Treasury; and a local area network which the Board has installed to improve office/field communications.

The area of greatest benefit has been the tracking of railroad grievance cases. Through our automation efforts, the parties have been able to identify and go forward with significant railroad grievance cases and to withdraw a large number of claims that involve issues similar to those already resolved or under review.

Automation has helped improve the efficiency of other NMB operations as well. The NMB was one of the first agencies to use integrated communications systems to facilitate communications both externally (with systems at the offices of airlines, railroads, unions, and law firms) and internally. Voice messaging simplifies internal communications without the limitations of time-of-day, day-of-week, time zones, and locations of staff. The Board has also been at the forefront of end-user computing through the widespread use of PCs.

Other topics on the Board's agenda for office automation include: creation of a network facsimile capability to provide direct computer access to the fast-growing area of fax communications; automated telephone call management; desktop publishing; and end-user database management.

## ADJUSTMENT OF RAILROAD GRIEVANCES

Mr. Harkin: I see that you have requested approximately $1.6 million to fund the National Railroad Adjustment Board whose members are required to hear and settle disputes involving railroad employee grievances. Over the past few years, the Board has attempted to streamline the grievance adjustment process by gradually implementing the suggestions of a bipartisan committee that was created in the mid-1980's to advise the Board. Why, then, are we seeing neither a decrease in the number of cases pending at the end of a given year nor a smaller budget request for this set of activities?

Mr. Javits: The request of $1.6 million will finance salary and travel for arbitrators working on the three tribunals: the National Railroad Adjustment Board, Special Boards of Adjustment and Public Law Boards. The total railroad grievance cases pending before the tribunals at the beginning of FY 1990 was 16,885 and 10,752 were pending at the close of FY 1990, a decrease of 36% in the pending backlog. This backlog reduction was in addition to 4,589 cases resolved by the referees.

The budget request has not been reduced so that prompt disposition of disputes can be continued, as required by the Railway Labor Act. Unfortunately, although more cases have been more inexpensively and more speedily resolved each year, the total number of cases filed for adjustment, the filing of which the Board does not control, have not appreciably decreased during the past five years.

# RAILROAD RETIREMENT BOARD

## STATEMENT OF GLEN L. BOWER, CHAIRMAN

ACCOMPANIED BY:
  ANDREW F. REARDON, MANAGEMENT MEMBER
  JAMES C. BOEHNER, ASSISTANT TO THE LABOR MEMBER

### BUDGET REQUEST

Senator HARKIN. Next we will hear from the Railroad Retirement Board. The Board has the responsibility of administering railroad retirement benefits and unemployment and sickness benefits. In accomplishing that mission the Board pays over $7 billion each year in benefits.

The fiscal 1992 budget request is $315 million for the dual benefits account, $74 million for limitation on administration, $17.2 million for limitation on railroad unemployment insurance and $13.9 million for a special management improvement fund.

I note that the Board is requesting that funding provided for the special management improvement fund be available through fiscal year 1996, and that a number of legislative proposals are included in the request submitted to this committee. These legislative proposals shortly will be addressed by the authorizing committee and not by the appropriations committee.

Mr. Glen Bower, the Chairman of the Board, is here today, and Mr. Bower, welcome to the subcommittee. Your statement will appear in the record in its entirety. Please proceed to summarize your statement.

### INTRODUCTION OF ASSOCIATES

Mr. BOWER. Thank you, Mr. Chairman. My name is Glen Bower. I am the Chairman of the Railroad Retirement Board. The Board's membership also includes Andrew F. Reardon, who is seated to my right and who is the management member, and C.J. Chamberlain, the labor member who is not present today but is represented by his assistant, Jim Boehner, who is seated to my left.

### SUMMARY STATEMENT

I am pleased to be here today to present the administration's budget proposal for fiscal year 1992 for the Board. I respectfully request that the statement be put in the record as you have already indicated it will be.

During fiscal year 1990, the Board paid $7.2 billion in retirement and survivor benefits to about 950,000 annuitants and $95 million in unemployment and sickness insurance benefits to about 55,000 beneficiaries.

During fiscal year 1991, the Board will pay benefits to approximately 890,000 retirement and survivor annuitants. I would like to report on several significant activities which have taken place in the last 12 months. These activities have given rise to a new set of priorities at the Board, priorities which I hope you will support.

### MANAGEMENT REVIEW OF THE RAILROAD RETIREMENT BOARD [RRB]

Based upon various GAO reports, RRB Inspector General reports and Board internal control reports and other sources, OMB launched a thorough management review of our agency. It included a 2-week onsite visit by a 20-person review team.

The review team drafted a set of recommendations which led to numerous extensive discussions with OMB and the Board to evaluate, analyze, and propose solutions to problems facing the Board. A set of initiatives was given and has been incorporated into an agreement between OMB and the Board.

The agreement has now been finalized. We are confident that the long hours and many discussions with OMB officials will indeed produce significant changes at the Board.

The agreement calls for the creation this year of a special management improvement fund to be used over the next 5 years. This year's budget request's most significant enhancement is the funding of these improvements. We recognize, however, that without the support of the Congress the OMB–RRB contract cannot be carried out. I will discuss this proposal in a moment.

### PROGRAM INTEGRITY ACTIVITIES

In the area of program integrity activities, during fiscal year 1990 we continued to make improvements in our program integrity operations. Fiscal year 1990 program integrity activities included investigation of uncashed checks, monitoring earnings, matching payroll records with railroads and States, and performing other types of monitoring and matching functions related to disability, age, and death. Some results of our fiscal year 1990 program integrity activities are detailed in the statement which I have submitted to you.

As I am certain you know, Mr. Chairman, the Inspector General of the Railroad Retirement Board, William J. Doyle, and his staff continue to play an integral role in the program integrity activities. We have referred numerous cases for investigation to the inspector general, and in the fiscal year 1990 we referred 272 such cases to his office. It is our hope that the continued crack-down on fraud upon our programs will be a strong deterrent.

### MAINFRAME COMPUTER

Funds of $2.89 million were provided in fiscal year 1991 to install and fund the first year of a 5-year lease-to-purchase procurement of a mainframe computer. The General Services Administration has approved delegation of procurement authority. On a parallel path, we are attempting to acquire a computer declared excess by another Federal agency. Such an acquisition would result in substantial savings. The new computer will enable us to implement several priorities of our agency and improve service to our beneficiaries.

### FISCAL YEAR 1992 APPROPRIATION REQUEST

I would like to summarize and highlight for you the new and important funding areas. As mentioned earlier, the requested increase for administrative funds over 1991 is primarily due to $13.9 million request for a special management improvement fund that we negotiated with the Office of Management and Budget.

The requests for our other administrative accounts also increases because of the January 1991 pay increase reflected for the entire 1992 fiscal year and an anticipated pay raise of 4.2 percent in January 1992, building rental costs, the postal rate increases and an anticipated increase in communication systems usage.

More funds are also requested in 1992 over 1991 for contractual services and equipment. Additional equipment funds would be used primarily to acquire additional personal computers, computer terminals, and auxiliary equipment.

Therefore, for fiscal year 1992, $105,210,000 and 1,711 FTE's are requested in the administration's budget for our agency. This would provide $94,564,000 for fiscal year 1992 administrative expenses. The balance of the appropriation—$10,646,000—would be obligated in fiscal years 1993 through 1996.

The inspector general has prepared a separate justification for audit and investigative activities. This is separate from our own funds, and we are requesting that you support this budget as we think it will be dollars well spent.

### SPECIAL MANAGEMENT IMPROVEMENT FUND

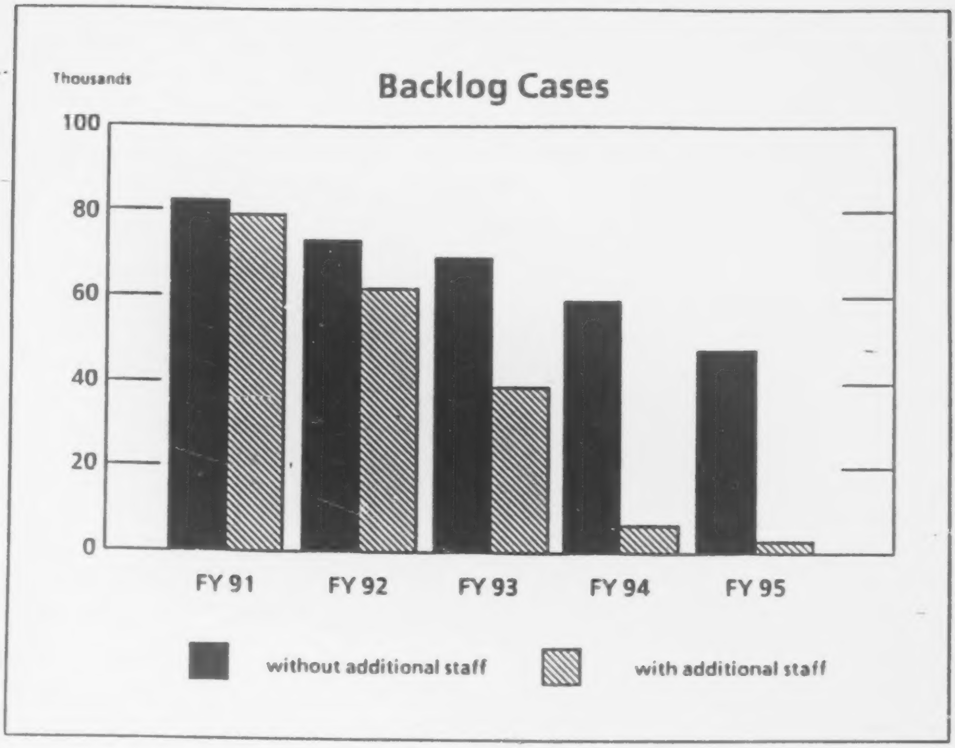
As noted earlier, a management improvement plan has been prepared in connection with the OMB review. I would like to briefly discuss the highlights with you.

### BACKLOG CASES

As you can see from the chart, a major backlog of adjustments to retirement and survivor cases still exist. A concerted effort by a sizable number of skilled and experienced claims examiners is needed to eliminate the backlogs in the next few years.

The dark bars on the chart indicate the number of expected backlog cases at current FTE levels and the shaded bars indicate the number of expected backlog cases at the enhanced FTE levels. Performance objectives for the number, accuracy, and timeliness of processing these cases have been agreed upon by the Office of Management and Budget.

[The information follows:]



DEBT COLLECTION

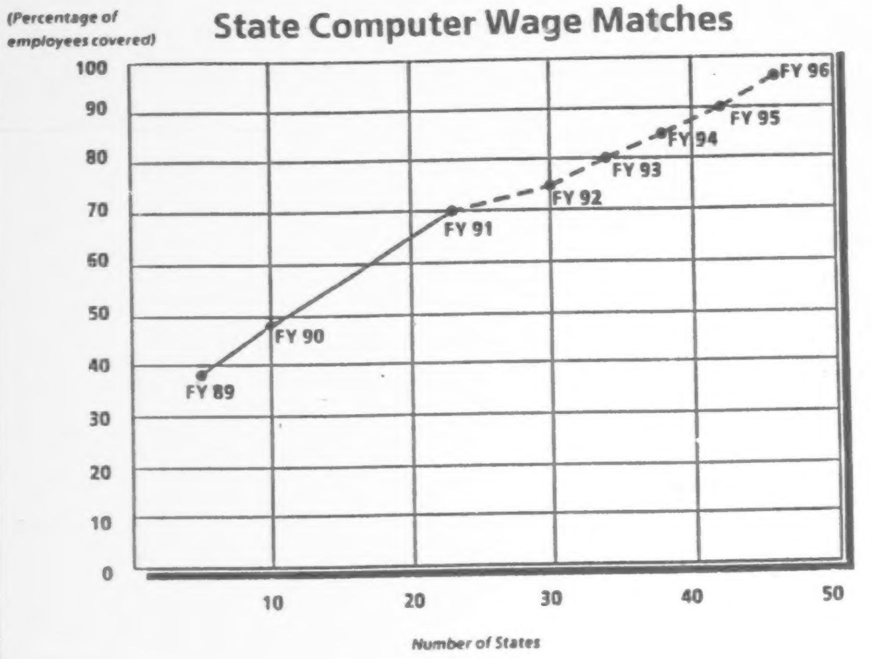
In the areas of debt collection, the Board would establish a strong executive position to manage the Board's debt collection program; expand and use debt collection agencies and the income tax offset program, eliminate the backlog of unemployment insurance cases requiring that accounts receivable be established, work toward debt offset programs where possible, and explore and use other collection tools. These debt collection enhancement programs would be more than offset by increased revenues to our funds.

FRAUD CONTROL

In the area of fraud control, Mr. Chairman, as you can see from the chart, in the last 6 months we have made significant progress in contracting with States to perform automated wage matches. As of October 1, 1990, we had contracts with 10 States that provided automatic wage matches covering about 48 percent of all railroad employees.

As of March 1, 1991, the number of States under contract had increased to 23 States and will cover about 70 percent of all railroad employees. It is our goal to enter into agreements with each of the 50 States and the District of Columbia if cost effective and as soon as practical.

[The information follows:]



*Note.*--Actual number of States added will depend on the results of cost-benefit analyses and on the receipt of additional resources.

### TAX ACCOUNTING

In the tax accounting area, internal quality assurance reports documented significant problems with the accuracy, quality, and timeliness of tax statements. The 17 FTE's being requested in fiscal year 1992 for this activity would be used to reduce the backlog of individual record and tax statement corrections, and maintain balances in other workload categories at normal levels, and to implement improved control systems.

### PREPARED STATEMENT

To help ensure that the correct amounts of taxes are credited to the RRB's accounts, the Board performs a number of verification checks. We have also requested additional information from the Internal Revenue Service to be able to further reconcile our accounts. The two FTE's being requested for this activity in fiscal year 1992 would be used to complete the compensation reconciliations sooner and to perform further reconciliation activities with information to be obtained from the Internal Revenue Service.

That concludes my remarks and I would be happy to answer any questions.

Senator HARKIN. Thank you very much, Mr. Bower.

[The statements follow:]

## STATEMENT OF GLEN L. BOWER

Good morning Mr. Chairman and Members of the Committee. My name is Glen L. Bower. I am the Chairman of the Railroad Retirement Board. The Board's membership also includes Mr. Charles J. Chamberlain, the Labor Member of the Board, and Mr. Andrew F. Reardon, the Management Member of the Board.

I am pleased to be here today to present the Administration's budget proposals for fiscal year 1992 for the Railroad Retirement Board. I would like to begin my statement with a brief description of the agency functions and operations.

### Background on the Railroad Retirement Board

The Railroad Retirement Board is an independent agency in the executive branch of the Federal Government, administered by three members appointed by the President. Our primary function is to administer retirement-survivor and unemployment-sickness insurance benefit programs for the nation's railroad workers and their families, under the Railroad Retirement and Railroad Unemployment Insurance Acts. We also have administrative responsibilities for certain social security benefit payments and railroad workers' Medicare coverage.

To accomplish our mission, the RRB maintains extensive electronic data processing equipment in our headquarters and a network of field offices. The RRB employs data processing technicians, field representatives to take claims, and examiners to adjudicate the claims. In addition, the RRB employs actuaries to predict the future income and outlays of the Railroad Retirement Account, statisticians and economists to provide statistics and other vital data necessary for financial and claims operations, and attorneys to draft and interpret legislation and to represent the RRB in litigation. Internal administration requires a procurement staff, a budget and accounting staff, and personnel specialists. The Board's Inspector General employs auditors and investigators to protect the integrity of the system. His budget is submitted separately.

During fiscal year 1990, the RRB paid $7.2 billion in retirement and survivor benefits to about 950,000 annuitants and $95 million in unemployment and sickness insurance benefits to about 55,000 beneficiaries. During fiscal year 1991, the RRB will pay approximately 890,000 retirement and survivor annuitants.

### Financial Status of the Trust Funds

During fiscal year 1990, revenues to the railroad retirement accounts exceeded expenditures by about $806 million and the equity balance of the retirement trust funds increased to $9.9 billion.

I'm also pleased to report that the equity balance of the Railroad Unemployment Insurance Account improved dramatically during fiscal year 1990: the deficit balance was reduced from $275.9 million to $83.6 million at year end. The deficit balance originated from high unemployment in the early 1980's which required loans to the Railroad Unemployment Insurance Account from the Railroad Retirement Account. We project that the balance will be repaid by 1994, assuming there is no major change in railroad employment. In addition, the experience-based contribution rates provided by 1988 legislation are expected to keep the system solvent.

## Significant Activities in 1990

### OMB Management Review

Based upon various GAO reports, RRB Inspector General reports, RRB internal control reports, and other sources, OMB launched a thorough management review of our agency. It included a 2-week on-site visit by a 20-person review team. The review team drafted a set of recommendations which led to numerous and extensive discussions between OMB and the RRB to evaluate, analyze, and propose solutions to the problems facing the RRB. A set of initiatives was selected and has been incorporated into an agreement between OMB and the RRB. The agreement will be finalized in the coming weeks.

The RRB recognizes that improvements in efficiency, service, and overall management are necessary. OMB recognizes that additional funding to support FTE's, equipment, and other services are necessary to achieve these improvements. The agreement between OMB and the RRB spells out the commitments of each agency and the expected accomplishments over the next 5 years. The agreement calls for creating this year, a Special Management Improvement Fund to be used over the next 5 years. This year's budget request's most significant enhancement is for the funding of these improvements. We recognize, however, that without support of the Congress, the OMB-RRB contract cannot be carried out. The funding called for in the agreement is needed to transform our set of ideas and goals into reality. In time, our beneficiaries will benefit from greater service, and our agency will benefit from greater efficiencies and productivity. The government, in general, will benefit from a smoother running, better managed agency.

### Legislation

Under the Railroad Unemployment Insurance and Retirement Improvement Act of 1988 (P.L. 100-647), we implemented the first phase of a completely new experience rating system for determining employers' individual contribution rates to the unemployment and sickness insurance program on the basis of benefits paid to each railroad's employees. In January 1990, a new database system began allocating unemployment and sickness insurance benefit charges and credits to employers, and in June we began notifying employers of their quarterly cumulative contributions and benefit charges. Early in October, we calculated an experience-based contribution rate for each employer applicable to compensation payable for 1991, and provided notice to each employer of its 1991 contribution rate and the components used in its computation.

Experience rating under the Act is being phased in over a 3-year transition period. The law provides that an employer's tax rate for 1991 be partially determined by the employer's experience in 1990; and for 1992, partially by the employer's experience in 1990 and 1991. Full experience rating will be implemented with the calculation of the employer's tax rate for 1993, based on experience in the years 1990, 1991 and 1992.

## Service

The RRB instituted procedures to accept annuity applications from employees and spouses up to 3 months in advance of their planned retirement dates, and to file their applications by telephone. Under previous rules, applications could not be filed prior to an individual's retirement date, unless the application was for survivor benefits; and most applications were filed in person. This new policy is another in a series of changes we have made to reduce the time it takes to initiate railroad retirement benefit payments to new retirees. Advance filing will allow us to complete the processing of most new claims by a person's retirement date, so that most applicants who file early should receive all benefits due about 30 days after their actual retirement.

We have also placed high priority on improving annual benefit/tax information operations. During fiscal year 1990, the annual statements of benefit payments issued for income tax purposes were redesigned to make them easier for annuitants to read, and new program changes were put into operation to improve the accuracy of statements issued in 1991.

In order to determine how well the needs of its beneficiaries are being served, the RRB conducted its first Client Satisfaction Survey. The survey results finalized in April 1990 showed that 88 percent of the respondents rated our service as good to very good and 90 percent were satisfied with the manner in which their most recent railroad retirement matter was handled.

Program Integrity Activities

During fiscal year 1990, we continued to make improvements in our program integrity operations.

Fiscal year 1990 program integrity activities included investigating uncashed checks, monitoring earnings, matching payroll records with railroads and States, and performing other types of monitoring and matching checks related to disability, age and death. Some results of our fiscal year 1990 program integrity activities are as follows:

-- Our field staff investigated 150 cases of returned or uncashed benefit checks and determined that in some cases the beneficiary was deceased. As a result, erroneous benefit payments of $216,357 were returned to the RRB.

-- Matches with Social Security Administration and Health Care Financing Administration death records identified 457 overpayments due to unreported deaths. Approximately $526,376 has been recovered, and recovery of an additional $426,500 is in progress.

-- Questionnaires sent to 4,044 annuitants over 89 years of age revealed 43 unreported deaths which resulted in identification of $600,383 in overpayments.

-- Payroll matches with several major railroads identified $247,707 in railroad unemployment and sickness insurance benefits to be recovered. Matches of benefit files with annual employee compensation reports helped identify another $55,012 in recoverable benefits.

-- Automated wage matches with several States identified 998 unemployment and sickness insurance beneficiaries who were improperly paid $929,230; manual wage checks also produced 636 cases involving $656,110 in recoverables.

-- A match with Social Security Administration earnings records in March 1990 identified 1,704 individuals with wage records showing earnings in excess of exempt amounts, and determinations of erroneous payments are in process.

-- Benefit savings of approximately $535,000 were realized in our unemployment and sickness insurance program through our new prepayment claims verification process.

The Inspector General continues to play an integral role in our program integrity activities. We have referred numerous suspect cases for investigation to the Inspector General; and in fiscal year 1990, we referred 272 cases to that office. It is our hope that the continued crackdown on fraud upon our programs will provide a strong deterrent.

## Financial Management Activities

The Inspector General began auditing various railroads and found that the tax deposits into the funds for some railroads were deficient. Indeed, millions of dollars have been identified through these tax audits, and we expect a significant enhancement to our trust funds.

Of the Federal agencies participating in the Federal income tax refund offset program, recoveries in RRB cases were among the most successful. The Internal Revenue Service collected $353,410 from income tax refunds for 1,727 cases referred by us. An additional $52,276 was collected directly from 215 debtors after the RRB notified them of our intent to refer their debt for offset by the IRS. Also, our debt collection program produced collections of $28,806 through referrals to the Department of Justice, and $25,524 through referrals to private collection agencies.

## Computer Equipment

Funds of $2.89 million were provided in fiscal year 1991 to install and fund the first year of a 5-year lease-to-purchase procurement for a new mainframe computer. The General Services Administration (GSA) has approved the delegation of procurement authority. On a parallel path, we are attempting to acquire a computer declared excess by another Federal agency. Such an acquisition could result in substantial savings. We plan to have the new computer operational this summer. This new computer system will not only speed current processing but support our 5-year computer software development plans which are described in more detail in our budget justification.

## 1992 Appropriation Requests

The requested increase for our administrative funds over 1991 is primarily due to the $13,910,000 request for the Special Management Improvement Fund that we negotiated with OMB. The requests for our other administrative accounts also increase because of the January 1991 pay increase reflected for the entire 1992 fiscal year, and an anticipated pay raise of 4.2 percent in January 1992, increased building rental costs, the postal rate increase and anticipated increases in communication systems usage. More funds are also requested in 1992 over 1991 for contractual services and equipment. Some of the new contractual service funds we are requesting would be used to conduct computer risk assessments and to develop security control guidelines in order to fulfill provisions of the Computer Security Act of 1987 and related OMB guidance. Additional equipment funds would be used primarily to acquire additional personal computers, computer terminals and auxiliary equipment.

Therefore, for fiscal year 1992, $105,210,000 and 1,711 FTE's are requested in the Administration's budget in three accounts for administration. This would provide $94,564,000 for fiscal year 1992 administrative expenses, an increase of $9,341,000 over fiscal year 1991. The balance of the appropriations, $10,646,000, would be obligated in fiscal years 1993 through 1996.

The total obligation authority of $105,210,000 being requested is split as follows: $74,037,000 for administration of the railroad retirement program, $17,263,000 for administration of the unemployment and sickness insurance program, and $13,910,000 (of which $3,264,000 would be used in fiscal year 1992) for the special management improvement program to be available over the next 5 years. Cost effectiveness will be the primary criterion for the expenditure of these funds, so that the investment will yield significant results in reducing the material weaknesses in the RRB's internal controls and effect increased earnings for our trust funds.

The Inspector General has prepared a separate justification requesting $7,700,000 and 119 FTE's for audit and investigative activities. This is separate from the funds requested to directly administer our programs.

## Special Management Improvement Fund

The RRB strives to fulfill its agency missions, but is also recognizes the need to improve or expand efforts in several areas: claims processing; debt collection; fraud control; information systems; tax accounting; and trust fund integrity. We identified the need for these improvements as a result of such activities as management reviews, internal control and quality assurance reviews, and Office of Inspector General audits.

In May 1990, OMB issued a draft management report as a result of an earlier on-site management review which included specific recommendations for improvements in these areas. Since then, the RRB and OMB have reached agreement on a funding proposal which would provide $13,910,000 in this Special Management Improvement Fund to be available for a 5-year period ending September 30, 1996, to accomplish the following mutually agreed upon purposes:

*Claims processing* -- Although progress has been made in reducing benefit case backlogs, a backlog of adjustments to retirement and survivor cases still exists. A concerted effort by a sizable number of skilled and experienced claims examiners is needed to eliminate the backlog in the next few years. Thirty-nine FTE's would be provided for this purpose in 1992. Performance objectives for the number, accuracy and timeliness of processing these cases have been agreed upon with OMB.

*Debt collection* -- The RRB would use the 6 FTE's being requested for 1992 to (1) establish a strong executive position to manage the RRB's debt collection program, (2) expand the use of debt collection agencies and the income tax offset program, (3) eliminate a backlog of unemployment insurance cases requiring that accounts receivable be established, and (4) work towards other debt offset programs where possible. The costs of these debt collection enhancements will be more than offset by increased collections.

*Fraud control* -- The 11 FTE's requested for this area would be used to extend our automated wage matching program to additional States in order to check on earnings by unemployment, sickness insurance and disability beneficiaries. In the last 6 months, we have made significant progress in contracting with States to perform such automated wage matches. As of October 1, 1990, we had contracts with 10 States that provided automated wage matches covering about 48 percent of all railroad employers. As of March 1, 1991, the number of States under contract had increased to 23 States which will cover about 70 percent of railroad employees. It is our goal to enter into agreements with each of the 50 States and the District of Columbia, if cost effective, as soon as practicable.

*Tax accounting* -- Under the Railroad Retirement Solvency Act of 1983, all railroad retirement annuities became taxable beginning with tax year 1984. Within a short time, the RRB developed an entirely new system to account for benefit payments by railroad retirement tier component and transaction date. Although the system was in place in time to release tax statements in January 1985, as required by law, the system was not fully completed. Legislative changes in 1986 and 1988 necessitated extensive revisions to this partially developed tax accounting system. Internal quality assurance reports documented significant problems with the accuracy, quality, and timeliness of tax statements.

The 17 FTE's being requested in fiscal year 1992 for this activity would be used to reduce the backlog of individual record and tax statement corrections (and maintain balances in other workload categories at normal levels) and to implement improved system controls. In September 1991, we also expect to complete an in-depth analysis of the current tax system to determine the extent to which this system and other systems from which it draws data need to be modified or replaced.

*Trust fund integrity* -- The IRS is responsible for the collection of railroad retirement taxes. The Financial Management Service of the Department of the Treasury is then responsible for depositing these taxes into accounts it maintains for the RRB. To help ensure that the correct amounts of taxes are credited to the RRB's accounts, the RRB performs a number of verification checks. Railroad employee compensation reported to the IRS for tax purposes and to the RRB for benefit purposes is reconciled. We have also requested additional information from the IRS to be able to further reconcile our accounts. The 2 FTE's being requested for this activity in fiscal year 1992 would be used to complete the compensation reconciliations sooner and to perform further reconciliation activities with the information to be obtained from the IRS.

*Information systems* -- The RRB will continue to implement long range automation plan for our retirement, unemployment and sickness insurance, and taxation programs and to continue to develop and expand the use of microcomputer technology. The 2 FTE's requested for this initiative would be used to develop a workload measurement system for tracking the time it takes RRB field offices to complete major workloads. The RRB is committed to concentration on creative ways to automate and streamline our systems and significantly increase accuracy and timeliness in the processing of our claims.

*Dual Benefits Payments Account*

The Administration's budget requests an appropriation of $315,000,000 for vested dual benefit payments in fiscal year 1992. This is $21.9 million less than appropriated in 1991. The requested amount is based on our best estimate of such costs and does not provide for any variation up or down in actuarial estimates. The proposed appropriation language also provides that 25 percent of the total amount provided for these benefits be transferred from the Railroad Retirement Account. An estimated $18,000,000 of the amount appropriated would be derived from income taxes on vested dual benefits, as provided by current law. The balance of the appropriation would be funded from general revenues.

## *Federal Payments to the Railroad Retirement Accounts*

The Railroad Retirement Solvency Act of 1983 amended the Railroad Retirement Act to provide for monthly transfers to the Railroad Retirement Accounts from the Department of the Treasury for principal and interest on benefit checks that were not negotiated. Such amounts were to be provided in advance in appropriation acts. Beginning in fiscal year 1991, the Competitive Equality Banking Act of 1987 provides that the principal amount of uncashed railroad retirement checks be funded by amounts appropriated to the Department of the Treasury. We therefore seek $400,000 in fiscal year 1992 for the Federal Payments to the Railroad Retirement Accounts only for the interest related to the unnegotiated checks.

## Legislative Proposals

Within the fiscal year 1992 budget, the Administration proposes legislation to:

-- decrease the general fund appropriation for vested dual benefits by 25 percent, and instead use rail industry pension funds to finance the difference (Rail retirees would still get the same benefit amount but the Federal subsidy of their private rail pension would be reduced.);

-- conform the definition of employee compensation under the Railroad Retirement Tax Act with the definition of employee compensation under the Federal Insurance Contributions Act;

-- conform social security level coverage for rail families with coverage available under Title II of the Social Security Act by providing direct social security payments to dependents of rail employees such as widows, children and divorced spouses now denied comparable benefits; and

-- extend the unemployment contribution rate for publicly-owned commuter railroads and AMTRAK whereby they reimburse the Railroad Unemployment Insurance Account for the actual unemployment and sickness insurance costs for their employees.

In concluding my remarks, I would like to say that the Board is proud of our many recent accomplishments. At the same time, we recognize the need to make further improvements. The commitment of the funds and additional resources I have outlined is essential to effecting long-term improvements and realizing our goals of improved operational efficiency, program integrity and improved service.

Thank you for the opportunity to appear before you today. I will be happy to answer any questions you may have.

## BIOGRAPHY OF GLEN L. BOWER

Glen L. Bower was appointed Chairman in April 1990 to complete a term ending in August 1992. An attorney, Mr. Bower had been Assistant Director of the Department of Revenue for the State of Illinois since 1983, and during part of his tenure, he also served as General Counsel, and as Chairman for the Revenue Board of Appeals. Mr. Bower has served on the U.S. Economic Advisory Board, 1982-85, and as Chairman of the Attorneys and Tax Appeals Section of the National Association of Tax Administrators, 1986-88. He was a Member of the Illinois House of Representatives, 1979-83, and was the State's Attorney of Effingham County, Illinois, 1976-79. An alumnus of Southern Illinois University (B.A. 1971), and the Illinois Institute of Technology/Chicago-Kent College of Law (J.D. 1974), Mr. Bower is a U.S. Air Force Reserve Major in the Judge Advocate General's Department.

---

## STATEMENT OF C.J. CHAMBERLAIN

Mr. Chairman and Members of the Committee, we are once again honored to have the opportunity to appear before you to answer your questions and concerns relating to the appropriation request for the Railroad Retirement Board. As Labor Member of the Board, I would like to make a few personal observations regarding our agency's budget submission for fiscal year 1992. As you know, the expenses for administering our system are paid entirely by the employees and employers of the railroad industry. The expressed desires of the railroad community for efficient, effective administration of the applicable laws have long been reflected by the Railroad Retirement Board in deciding the level and quality of service provided and the measures necessary to maintain the integrity of our benefit payment programs. This is consistent with our understanding of past Congressional concern that decisions as to the scope and costs of government programs should be made by those who pay for, and are served by those programs.

The President's proposed budget for the administration of our agency during fiscal year 1992 represents a responsible, prudent package that adequately addresses not only our on-going workload and beneficiary service commitments, but also provides much needed support for improvements in our operating efficiency. The proposed limitation on administration before this committee will provide a sound basis for continuing the good record of service our beneficiaries expect, and allows us to look to the future needs of our agency. The Railroad Retirement Board fully recognizes our responsibility to the Railroad Retirement System and the beneficiaries we serve. We will continue our concern with improving the financial health of the trust fund through measured improvements in all areas within our administrative responsibility. In this regard, we would also like to take this opportunity to commend the Board's Inspector General and his staff for their continuing efforts in auditing employer retirement tax collection and reporting, as well as working with Treasury and the IRS to ensure proper accounting and handling of our agency's trust fund accounts.

As the Member of the Board who serves as a representative of railroad labor, I would also urge Congress to continue their efforts to provide full funding for vested dual benefits. The rail labor community looks forward to your continuing support and recognition of the reasonable expectations of the hundreds of thousands of families and individuals who depend on our retirement system.

Once again, I would like to thank you for your past support for reasonable levels of funding and staffing and I look forward to working with you during the coming year.

---

## BIOGRAPHY OF CHARLES J. CHAMBERLAIN

Charles J. Chamberlain was first appointed to the Board by President Carter upon the unanimous recommendations of railway labor organizations in October 1977 to complete a term ending in August 1979. He was then reappointed by President Carter in 1979 for a 5-year term through 1984; by President Reagan for a 5-year term through 1989; by President Bush for a 5-year term through 1994. Prior to his first appointment, he was President of the Brotherhood of Railroad Signalmen, and had also served as Chairman of the Railway Labor Executives' Association, a coordinating and policymaking body on legislative and other matters affecting railroad workers. In addition, he served on the High Speed Ground Transportation Advisory Committee, the

Railroad Safety Research Board, and the Railroad Industry Labor-Management Committee. Mr. Chamberlain began his railroad career as a signalman for the Chicago and North Western Railroad in 1938. He immediately became active in the railroad labor movement and held numerous union offices before becoming President of the Brotherhood of Railroad Signalmen in 1967.

## BIOGRAPHY OF ANDREW F. REARDON

Appointed by President Bush and confirmed by the United States Senate in 1990, Andrew F. Reardon is the Management Member of the three-member U.S. Railroad Retirement Board. This Federal agency, having an $8 billion dollar annual budget is charged with administering retirement, sickness and unemployment benefits to the nation's rail workers.

Previously, Mr. Reardon was Sr. Vice President-Law and Administration of Illinois Central Transportation Company, a transportation and real estate concern headquartered in Chicago. In that position, he managed the law department together with the claims and security departments. Mr. Reardon's prior experience in the rail industry was with Burlington Northern where he served as Senior Tax Counsel. A tax lawyer by background, Mr. Reardon commenced his legal career with the firm of Thompson & Mitchell in St. Louis.

He is a member of the Bar in five states and numerous Federal courts. He authored "Leasing Under the Economic Recovery Tax Act of 1981," which was published by the Practicing Law Institute. He is a member of the American Bar Association and was formerly Chairman of its Depreciation and Credits Committee.

Mr. Reardon graduated from the University of Notre Dame (B.A., 1967) where he was an NROTC scholarship student; the University of Cincinnati Law School, (J.D., 1974); and Washington University Law School (L.L.M. in Taxation, 1975). He served as a lieutenant in the U.S. Navy, 1967-71, which included service aboard the aircraft carrier, USS Wasp (CVS-18).

## BACKLOG CASES

This backlog of cases, this is something that has been festering for a long time since I took chairmanship of this subcommittee and even before that when I was on the subcommittee. And I keep hearing, well, we are going to get a handle on it. We are going to get a handle on it and nothing ever seems to happen.

I like the progress that that looks good there. But again, how much additional staff do you need to get it on that track then?

Mr. **Bower**. Thirty-nine for the claims processing.

Senator **Harkin**. That's part of the 77?

Mr. **Bower**. That is correct, sir. That is the biggest part.

Senator **Harkin**. Thirty-nine of those are for the backlog?

Mr. **Bower**. You can see in fiscal year 1995, we would be at normal workload levels if our funding request is granted.

Senator **Harkin**. Well, I am going to be here in 1995. I am going to hold you to it.

Mr. **Bower**. If it is my privilege to be here, I certainly hope to report positively that that has, in fact, happened.

Senator **Harkin**. We will have you here next year and we will take a look at that chart and we will see if it reaches the goals.

Mr. **Bower**. I would be happy to address that and you have my pledge that we are going to meet it.

Senator **Harkin**. All right. Good enough.

## SOLVENCY OF THE TRUST FUNDS

Now the other thing. I keep hearing among a lot of railroad retirees, now, that there are a lot of rumors running around, in fear that something about the retirement fund is being used up. There is not going to be enough money there to meet the needs of retirees, that money has gone out of the fund for other purposes.

I do not know if this comes as a shock to you or not, but there are a lot of rumors like that running around. How do you respond to that, that the retirement fund has been used for other purposes and the money has not come back in?

Mr. **Bower**. I think retirees of any system are always concerned that their futures are secure. Obviously, the Board only spends the funds that are appropriated by Congress. And as I think you are probably aware, Senator, the Commission on Railroad Retirement Reform reported last September on the status of the trust funds as they found them and determined that, in their opinion, the trust funds were secure for at least the next 25 years and quite likely, well beyond that.

## FUNDING FOR IMPROVEMENT ACTIVITIES

Senator **Harkin**. Good. You need a total of $13.9 million for 1992 for the 77 FTE's.

Mr. **Bower**. That is the proposed total funding through 1996.

Senator **Harkin**. Why do you need it next year then?

Mr. **Bower**. We do not need to spend all of it next year. The Office of Management and Budget and the Board, for nearly the last year, have been examining the Agency's needs and shortcomings. Based upon OMB's assessment of our needs and discussing with us how we thought we could resolve the problems, we entered into this contractual agreement.

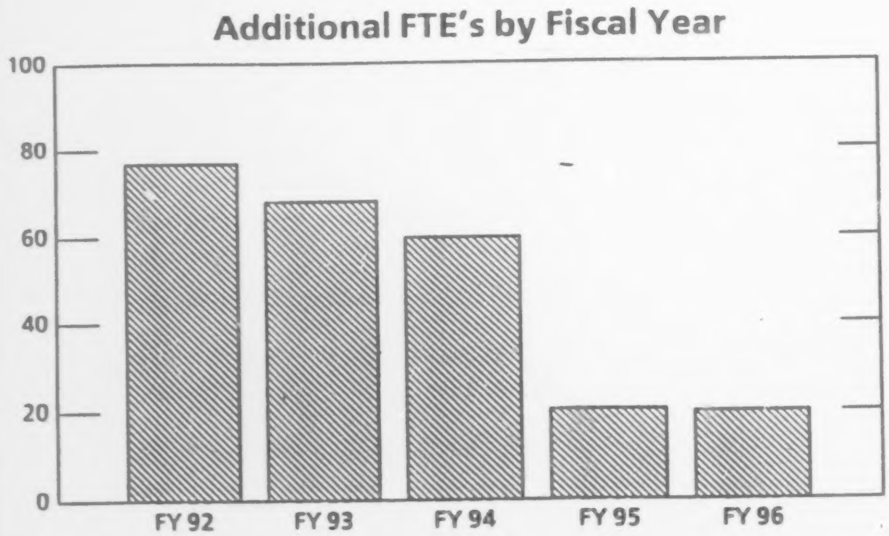
It is significant that both OMB and their team included expert people from many Federal agencies. The review team and the Board and the Board staff believe most of these problems cannot be resolved overnight, or in a single year.

Under this agreement, we have a 5-year plan to address six major problem areas. Some of these are certainly problems, particularly in the area of backlogs and in the tax accounting system, that are going to take several years to resolve. And what we want to do is begin assembling the staff because it takes new claims examiners several months before they are up to speed. Only then can we address the problems. And then it will start, the head count will start attriting in later years.

## ADDITIONAL STAFFING FOR IMPROVEMENT ACTIVITIES

In fact, we have a chart that I think demonstrates what our plan is in that regard. In the area of enhanced debt collection and the wage matches with the States, these are programs that we sincerely believe are going to easily bring back to the trust funds, more than we are going to spend by quite a bit. As you will note from the chart, in 1992 is when we start staffing up and then it drops off in each year thereafter.

[The information follows:]



*Note.*--Full-time equivalent employees (FTE's) for improving the railroad retirement tax accounting system will be determined in FY 92, based on analysis to be completed in September 1991.

## FUNDING FOR IMPROVEMENT ACTIVITIES

Senator HARKIN. I am trying to listen to that and I am trying to think. If you are just going to use $3.2 million this year, in the coming year, I do not understand why you need $13.9 million. Why can you not, next year, come up with the next amount.

Mr. BOWER. Obviously, Mr. Chairman, that is up to the Congress to determine whether we actually get to do that. But it is based upon, as I say, a contractual agreement where OMB has actually said, we are going to go forward and urge the Congress to appropriate this money over the course of the next 5 years, if you, the Railroad Retirement Board will agree to make certain improvements. And it is not just an agreement.

There are absolute measurements that are built into the system and the inspector general of the Railroad Retirement Board is going to be responsible, under the agreement, and he certainly agrees to, to see that we are in fact meeting those marks. And he will be filing reports every 6 months on this.

Mr. REARDON. Senator, I might add that basically, this $13.9 million program is a singular program and we feel that in order to have the appropriate comfort level that this solution will work, the continuity of the program has to be guaranteed. That is the most desirable approach, rather than get $3.2 million this year and then perhaps not get the balance of the package in future years, and therefore be unable to meet those targets. It is a singular type of program.

Mr. BOWER. I might add that the Office of Management and Budget has made it very clear to us, if this is appropriated and if we do not meet the targets, that they will not apportion the money to us in the following years.

## DETAILED WORK PLAN FOR IMPROVEMENT ACTIVITIES

Senator HARKIN. Do you have a more detailed work plan to supplement this master plan? Do you identify specific target dates, milestones, expenditures for these operational improvements? Do you have a backup plan that spells these out?

Mr. BOWER. I believe that we have provided your office with a copy of our agreement.

Senator HARKIN. That is just the agreement. Do you have the backup work planned to implement the agreement?

Mr. BOWER. I am certain that we can get that information to you. We have it obviously.

Senator HARKIN. We would like to have that and I would like to have it fairly soon before we mark up. As I said, I am going to be here and I want to make sure these goals continue to be met. And I will just tell you that I have a bit of a problem with forward funding everything. You have got these goals. I would like to see if we are meeting those year after year, rather than going back trying to reprogram money.

Mr. REARDON. Senator, I might also add, coming in relatively new, I had a high level of discomfort that we might be throwing good money after bad. One of the check points along the way at these various milestones, to insure that we do meet the goals the Chairman and the Board have devised, will be to tie these goals to the personal bonuses of the department heads who are responsible for execution of the game plan. Consequently, they have a vested interest in its success.

## MEDICARE

Senator **Harkin**. Another issue that has come up, I would like for you to be able to talk to me about. The Board has had the same Medicare carrier since 1966. This contract has never been competitively bid, allegedly, I understand. During fiscal year 1990, the cost paid to the carrier was $21 million. That cost rose to $23 million in 1991.

A recent health and human services inspector general study stated that the Government would save considerable funding and staff resources if HCFA were to take over the management of this contract. What are your views on that?

Mr. **Bower**. Mr. Chairman, soon after I received the copy of the report from HHS's inspector general, I asked our own inspector general to review, and validate, and offer his own opinions on that report, and additional research as to what he thought the advisability of such an approach would be. And he has assured me that we will have his report in the very near future.

Senator **Harkin**. So nothing has happened. You just asked him to do his own study.

Mr. **Bower**. We asked him to review the study that was already done and to expand upon that.

Senator **Harkin**. And based upon that, then you will decide what kind of action you need to take. Is that right?

Mr. **Bower**. Yes.

Mr. **Reardon**. In addition, Senator, in our February meeting of the Board, we also instructed the Board staff to prepare an analysis of what would be required to put this out for competitive bidding.

Senator **Harkin**. Is this going to be done?

Mr. **Reardon**. We instructed them to have it completed no later than June of this year.

Senator **Harkin**. And you will communicate that to us?

Mr. **Bower**. Certainly.

Senator **Harkin**. Mr. Bower, we covered, for the record, a couple of major things I wanted to do. I want to make sure we get a copy of, not this one, but the backlog and cases reduction and we will keep it on hand here.

Mr. **Bower**. I think I have already provided that to your staff, but we will be happy to give you another copy.

## QUESTIONS SUBMITTED BY THE SUBCOMMITTEE

Senator **Harkin**. That is all right, if we have got it here. And you will send that other stuff up on the Medicare bidding thing. We have some other questions I want to cover with you on mainframe acquisition and all that, but we can do that in writing. Thank you very much.

There will be some additional questions which will be submitted for your response in the record.

[The following questions were not asked at the hearing, but were submitted to the Board for response subsequent to the hearing:]

# QUESTIONS SUBMITTED BY THE SUBCOMMITTEE

## SPECIAL MANAGEMENT IMPROVEMENT FUND

Question. The fiscal year 1992 budget requests $13,910,000 for a Special Management Improvement Fund, $3,264,000 to be available in fiscal year 1992 and the remaining monies to be available through fiscal year 1996. Included in this request, is a request for an additional 77 full-time equivalent staff years (FTE's). Why does the Board need the total $13.9 million in fiscal year 1992 if the Board is only planning to use $3.2 million in the coming fiscal year?

Answer. Office of Management and Budget (OMB) has recommended and the Board agrees that a 5-year funding commitment is the most prudent approach for the Special Management Improvement Program. The management reform plan is comprehensive and aimed at resolving systemic material weaknesses in the Board's internal controls and programs. These problems did not arise in any one fiscal year and will take multiple years to resolve.

The Board and OMB are committed to long-term progress. The plan developed to address these problems is the result of long hours and an in-depth analysis of the solutions. It would be very difficult to structure the reform plan without a multi-year approach. OMB advises that the 5-year plan is best suited for the types of issues we are addressing.

Question. What guarantees does this Committee have that these monies will be used for management improvements and not to supplement current staffing?

Answer. Our agreement with OMB outlines in detail how this funding will be used to achieve specific performance objectives. To ensure that funding is used exclusively for the purposes stated in that agreement, the Special Management Improvement Fund has been separated from our general administrative accounts in the budget process and will be continuously subject to the OMB apportionment process. This is a significant control in the process.

Additionally, and perhaps most significantly, the Inspector General has been requested by the Board and OMB to administer a compliance program in connection with our management improvement plan. The Inspector General will monitor compliance with the 5-year plan and expenditures and is required to issue formal reports every 6 months. We will be happy to make these reports available to the Committee.

Finally, although we do not expect to fall short of our commitment, the Congress always retains the appropriation authority to rescind its previous funding commitment. While we agree that a multi-year approach to funding is not the common approach, it is appropriate in certain circumstances, such as proposed here.

Question. Although the Board requests an increase of 77 FTE's under the Special Management Improvement Fund, there is a decrease of 8 FTE's in its other accounts. Will some of the FTE's in the management improvement fund be used to fill those vacancies? If not, how will the activities of the 77 FTE's under the management improvement fund differ from the responsibilities of current employees?

Answer. We will not use any of the FTE's under the Special Management Improvement Fund to fill vacancies in other areas. The FTE's requested for the Special Management Improvement Program have been designated to work in six functional areas: claims processing, debt collection, fraud control, tax accounting, trust fund integrity, and information systems.

In some of these areas, such as trust fund integrity, our agreement with OMB calls for us to begin new initiatives for which we do not now have sufficient staffing. In other areas, such as claims processing, the agreement calls for us to accelerate operations which are already underway.

In either case, our agreement with OMB includes specific performance objectives which we plan to achieve with the additional resources in each area. These objectives would not be attainable in the near term without the additional staff, and our progress toward meeting them will be carefully monitored.

Question. The Board's justification indicates that in fiscal year 1992, 16.8 FTE's out of the 77 are being requested for tax accounting. The number of FTE's for future years in tax accounting will be determined later. Does this mean that you are expecting to request more than 16.8 FTE's and will request additional funding for the management improvement fund?

Answer. We expect that we will need 16.8 FTE's for tax accounting in fiscal year 1992, and that we will continue to need FTE's from the Special Management Improvement Fund for this work during fiscal years 1993 through 1996. However, we have already planned for funding these additional FTE's from the $13.9 million requested for the Special Management Improvement Fund over this 5-year period. We may seek a higher FTE ceiling for the tax accounting area, but we will not seek additional money.

Our agreement with the Office of Management and Budget calls for total spending of $4,707,000 from the Special Management Improvement Fund for tax accounting initiatives through fiscal year 1996. We plan to use $965,000 of this amount for shorter range initiatives in fiscal year 1992 and the remaining $3,742,000 for long-range initiatives in the following years.

## 5-YEAR WORKPLAN

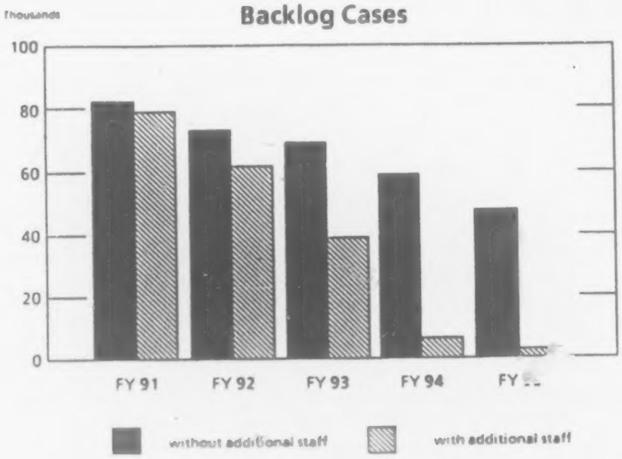
Question. The Special Management Improvement Initiative agreed to between the Board and OMB sets forth a 5-year plan for the implementation of the 77 FTE's and the appropriation of $13 million to be used for operational improvements. Has the Board prepared a second level or more detailed workplan that would supplement the master plan and identify specific target dates, milestones and expenditures for these operational improvements?

Answer. The Board submitted fairly detailed information to OMB in the process of reaching agreement on the purposes and scope of the Special Management Improvement Initiative. This information described the nature of the problems, resource commitments, and specific goals for evaluating performance, including milestones and production and improvement objectives.

We are now in the process of developing more detailed workplans which will build on the information submitted to OMB and show how we will accomplish each program improvement identified in the agreement.

Question. Should the $13 million and 77 FTE's for the Special Management Improvement Initiative not be approved by the Congress, what contingency plans has the Board prepared to make operational improvements?

Answer. Before the Special Management Improvement Initiative began to take shape in mid-1990, the RRB was in the process of addressing many operational improvement issues. If the funding for the Special Management Improvement Fund is not approved, we will still continue to work toward achieving the needed improvements with the more limited resources available. However, without the additional resources being proposed by the Administration, it would take much longer to make improvements. For example, the following table illustrates the impact the additional resources would have on reducing cases backlogged in our railroad retirement program.



MEDICARE CONTRACT

Question. The Board has had the same Medicare carrier since 1966. This contract has never been competitively bid. During fiscal year 1990, the cost paid to the carrier was $21 million; that cost rose to $23 million in fiscal year 1991. A recent HHS-OIG study stated that the government would save considerable funding and staff resources were HCFA to take over the management of this contract. What action is the Board taking as a result of that recommendation?

Answer. The Board's Office of Inspector General has undertaken a detailed review of the HHS study and will be reporting its findings to the Board Members in the very near future. The Board Members have also instructed agency staff to analyze the process of competitive bidding for the contract so that it can move forward once a decision is reached.

## DUAL BENEFITS

Question. Last year, the Board's estimates for the Dual Benefits Payments Account changed numerous times from the date of the budget submission until such time as the fiscal year 1991 appropriation was enacted. You are requesting $315,000,000 in fiscal year 1992 for dual benefits. Is that amount sufficient for these payments in fiscal year 1992? If not, why has the estimate changed?

Answer. The $315,000,000 requested by the Administration was based on the RRB's best estimate of vested dual benefit payments for fiscal year 1992. The estimate was based on projections by our Chief Actuary, but the exact dollar amount required during the year will depend on mortalities, new awards, and other variables that cannot be precisely determined at the beginning of the year. In the past, an additional margin of 2 percent was therefore appropriated by Congress for the uncertainties associated with estimates and projections. An additional variable for fiscal year 1992 results from our subsequent analysis of a number of beneficiaries who were not paid vested dual benefits to which they were entitled in past years. While we are processing these cases in fiscal year 1991, additional payments will be required in fiscal year 1992. The $315,000,000 estimate does not reflect paying any of these cases in fiscal year 1992.

Additionally, the Labor Member believes that, providing for the 2 percent margin would require an appropriation of $322,000,000 to ensure no reduction in benefits resulting from under funding of the dual benefit account. Furthermore, the $322,000,000 estimate does not reflect any of the cases resulting from our subsequent analysis of beneficiaries who were not paid dual benefits to which they were entitled in past years. Our Chief Actuary advises that a total of $328,000,000 would provide sufficient funding for all dual benefit payments made during fiscal year 1992.

## MAINFRAME ACQUISITION

Question. In fiscal year 1991, funding was provided to the Board for the acquisition of a mainframe computer. It is my understanding that the Board has been negotiating to obtain a computer that has been declared surplus. Where are those negotiations and what is the estimated cost of that acquisition?

Answer. The RRB has submitted requests to the General Services Administration (GSA) to obtain one of four computer mainframes declared surplus by other Federal agencies. The estimated acquisition costs of these computers are between $5 million and $6 million. We have provided GSA officials all of the information that they have requested. On April 5, 1991, GSA informed us that they assigned 2 of the 4 available excess computers to another Federal agency, but no decision has yet been made on the disposition of the remaining 2 surplus mainframes.

Question. In the event the negotiations for the procurement of the mainframe through the surplus property route fall through, what is your backup plan -- where do you stand on procurement of the mainframe?

Answer. In the event we do not acquire a surplus computer, we will acquire a new computer through the competitive acquisition process. Competitive proposals were submitted to the RRB by April 8, 1991, and technical and cost evaluations are being made. If we acquire a new computer through this process, we expect the procurement to be completed and the computer installed during July 1991.

Question. What steps has the Board taken to comply with the language included in the fiscal year 1991 Appropriations Act that the funding for the purchase of the mainframe and related contract services will only be available upon the delegation of procurement authority from GSA to the Board?

Answer. The Board is complying with the fiscal year 1991 appropriations language. On July 27, 1990, GSA approved the delegation of procurement authority to the Board for acquiring the mainframe computer. On August 19, 1990, GSA informed us that the computer procurement would be subject to GSA compliance review, and we are reporting to GSA as required.

## EQUIPMENT PURCHASES

Question. The budget indicates that the Board will be purchasing an additional 77 personal computers in fiscal year 1991 and 175 in fiscal year 1992. Are any of these equipment purchases coming out of the Special Management Improvement Fund?

Answer. The Special Management Improvement Fund will not be used to fund any fiscal year 1991 expenditures. In fiscal year 1992, we have earmarked $21,000 from the improvement fund to purchase 4 personal computers.

## COST OF MEDICARE

Question. Is the per unit cost of this contract above the national average paid out for other Medicare contractors?

Answer. The Travelers' total contract unit cost for fiscal year 1990 was $1.94 compared with a $2.03 national average. The Travelers' workload related unit cost for that year was $1.72 compared with a $1.56 national average. (These statistics are provided by the Travelers.)

The workload-related unit cost reflects costs in three areas: (1) processing claims, (2) conducting reviews and hearings, and (3) handling inquiries from beneficiaries and physicians. The contract unit cost includes the above activities, plus costs for (1) professional relations, (2) medical review/utilization review, (3) reviewing cases to determine whether Medicare should be a secondary payer, (4) contact with participating physicians, and (5) productivity investments.

Question. What is the average Medicare claim paid by your carrier as compared to other carriers nationwide?

Answer. In fiscal year 1990, The Travelers paid out an average benefit per claim of $64.09. The national average for all carriers that year was $76.75.

## AUTOMATION

Question. The Board's budget justification states that the mainframe computer is operating at 100 percent capacity for 6 to 8 hours per day. Did the Board request computer support in the budget in past years in anticipation of the day 100 percent capacity would be reached?

Answer. Our current computer was purchased in 1985. At that time, based on workload forecasting, the RRB projected the computer's useful life would be 7 years. However, new legislation put substantial, unforecasted demands on our computer's capacity. The Railroad Unemployment Insurance and Retirement Improvement Act of 1988 (P.L. 100-647) required among other things (1) prepayment verification of claims for unemployment and sickness insurance benefits and (2) development of an experience rating system for our unemployment and sickness insurance program.

Detailed data gathering to determine what size computer would be needed to support our new automation approach and increased demand began in the Fall of 1988. Our planning resulted in the request for a new computer being included in our August 1989 submission of the fiscal year 1991 budget.

Capacity planning during the last 2 years has also allowed us to extend the useful life of our current computer. We developed data to project the need for increased direct access storage, main storage, and channels. These were installed in 1989 and 1990.

Question. Does the fiscal year 1992 budget include any funding to look at long-range plans for automation?

Answer. There are no funds requested in the fiscal year 1992 budget that are specifically identified for long-range automation planning. However, we are exploring the possibility of an outside vendor evaluating our current automation plans.

Question. What is the current status of your automation plan, what period does it cover and how often is the plan updated?

Answer. A plan -- dealing mainly with the retirement program and tax accounting -- prepared by an internal automation planning group was approved in January 1990. A 5-year automation plan incorporating this as well as the unemployment program and office automation was produced in August 1990, covering fiscal years 1990 through 1994. An updated automation plan covering fiscal years 1991 through 1995 is now being evaluated, and we intend to update the automation plan annually to reflect changing conditions and current direction.

Question. Have you undertaken computer capacity studies of the RRB mainframe on an annual basis? What are those studies showing?

Answer. No, the RRB does not perform formal computer capacity studies on an annual basis. We do, however, monitor computer performance on a daily basis through the use of an on-line, real-time monitor (CMF, Comprehensive Management Facility). This monitoring provides information necessary for projecting long-range computing requirements. It also provided data which enabled us to extend the useful life of our current computer by incrementally adding memory and channels.

We have asked our Director of Data Processing to provide us with an annual assessment of how our usage compares to the levels we projected in justifying the new computer.

Question. Is installation of the mainframe computer going to require outside contractor support, and if so, what is the projected cost of that support?

Answer. The RRB will need $600,000 for contractor assistance to modify our data center to accept the new computer and to install the computer. We will need to modify the air conditioning, electrical wiring and physical layout of the data center. If we obtain a used computer, we will need an additional $100,000 for computer power units and $72,000 for potential software upgrades, transportation costs, and installation costs. We believe these costs represent all of the costs associated with the installation of the new mainframe computer.

Question. What steps are you taking to ensure that no increase in mainframe capacity will be needed for at least another 6 years?

Answer. The RRB's current sizing study includes historical computer usage brought forward, and projections for (1) new systems development and (2) increased computer demand resulting from new systems being brought on-line during the next 5 years. If the RRB is successful in obtaining a used computer available through the GSA, that computer would support our projected computing requirements for 6 years.

Question. What contingency plans has the Board drawn up in relation to additional costs in computer hardware, software, or contracting assistance?

Answer. We believe we have identified and budgeted for all costs associated with the procurement and installation of the new mainframe computer. However, since the computer will be installed late in fiscal year 1991, any unforecasted increases in computer hardware, software, or contracting assistance will be accommodated within the existing appropriation.

Question. What is the timetable for the implementation of this system and what type of mechanism will the Board employ to ensure a cost-effective implementation of the system?

Answer. The procurement timetable in the solicitation for the new computer calls for installation in July 1991. The timetable for acquiring a used computer through GSA's exchange sale program is dependent on the releasing agency.

To ensure a cost-effective implementation, the RRB will develop a detailed project tracking checklist. We will target installation for a weekend to avoid any impact on mainline RRB processing. In 1985, we installed our current mainframe computer. At the same time we moved into our new data center. No service interruptions occurred. The Board remains committed to the goal of uninterrupted service.

# NATIONAL LABOR RELATIONS BOARD

## STATEMENT OF JAMES M. STEPHENS, CHAIRMAN

ACCOMPANIED BY:
JERRY M. HUNTER, GENERAL COUNSEL
HARDING DARDEN, JR., BUDGET OFFICER
JOHN C. TRUESDALE, EXECUTIVE SECRETARY

### BUDGET REQUEST

Senator HARKIN. We are going to go out of order a little bit. Senator Specter is tied up in other committee meetings. We are going to go right now to the National Labor Relations Board, if we could. And that would be Mr. James Stephens, Chairman.

For the National Labor Relations Board, the fiscal 1992 request is $162 million, an increase of $10.8 million over 1991. I know the Board was created to prevent and remedy unfair labor practices by employers or unions, and to conduct elections to determine whether employees wish to be represented by a union.

We are pleased to have Mr. James Stephens, Chairman of the Board, with us this morning. Your statement will be made a part of the record in its entirety. You can introduce the people here with you and then give us a summary.

### INTRODUCTION OF ASSOCIATES

Mr. STEPHENS. Thank you very much, Mr. Chairman.

Accompanying me this morning, on my far left is Jerry Hunter, our General Counsel. On his right is Harding Darden, Jr., our Budget Officer. To my immediate right is John Truesdale, our Executive Secretary. We are also accompanied this morning by Judge Melvin Welles, our Chief Administrative Law Judge, Randy Frye, our Acting Deputy General Counsel, Yvonne Dixon, our Assistant General Counsel, Joe DeSio, our Associate General Counsel, and Edward Blansitt, who is the Executive Assistant to the Director of Administration. Also Gloria Joseph, who is our Acting Director of Administration.

### HIGHLIGHTS

In accordance with the normal procedure, the agency has already submitted to the committee, a detailed fiscal 1992 justification. And in my testimony today, I would like to briefly highlight the justification statement. As the Chair indicated, the fiscal 1992 budget now before you requests an appropriation of $162 million, compared to the 1991 appropriation of $147.4 million.

The budget request before you for 1992 is the product of an analysis of the NLRB's best current estimate of the number of cases that the agency will receive in 1992, how these cases will be resolved, the number of staff years of employment needed based on targeted rates of productivity. And finally, the direct and support costs required to handle the anticipated caseload.

The budget request presented to you today projects that the NLRB's case intake in 1992 will increase by about 1.8 percent while staff will increase by about 1 percent. This budget request encompasses our fundamental objective of responding appropriately to every case on our docket each year. We expect to handle the increase in case intake, and with a slightly higher staff, handle our cases in a timely basis.

The total 1992 request represents a $14.5 million increase from 1991. The increased funding would meet higher normal operating expense requirements and the employment expenses that are not completely offset by our expected productivity achievements.

I would like to highlight just one thing for the subcommittee. I am pleased to report that the Board, for the fifth consecutive year, has succeeded in lowering its backlog of undecided cases. As the subcommittee knows, the backlog peaked in 1984 at a record 1,679 cases. That included unfair labor practices and representation cases. By the end of January 1991, that number had declined to 523 cases, a drop of 1,156 cases or about 70 percent. And I am pleased to be able to report today that we, as of March 1, we have had a further decline in our backlog. As of today, we are down to 462 pending cases at the Board level.

I would also like to point out that one of the problems at the Board level in past years has been the number of old cases at the Board. In 1987, we had over 300 cases that were over 2 years old. We embarked upon a pretty active program to try to cut down the number of old cases at the Board. And I am pleased to report that as of today, we are down to 21 cases that will be 2 years old as of the end of this month.

For the balance of the year, the last half of this fiscal year, we started out the fiscal year with roughly 116 cases that would be 2 years old by the end of the fiscal year. We have pared that number down to 64. And our objective for this year is to have no cases over 2 years old by the end of the fiscal year. I am hopeful that we can meet that goal.

I am pleased with the progress that we have made to date, not only in cutting out the number of old cases, but just cutting down the size of the backlog.

### PREPARED STATEMENT

Let me, at this point, yield to the General Counsel who can comment on the general operations and administration of the agency, and also comment on his statutory responsibility for the investigation and prosecution of cases.

[The statement follows:]

# STATEMENT OF JAMES M. STEPHENS

Mr. Chairman and distinguished Members of the Subcommittee:

I welcome this opportunity to appear before you as Chairman of the National Labor Relations Board (NLRB) to discuss the Agency's budget request for Fiscal Year 1992. I would like to introduce our General Counsel, Jerry M. Hunter. Also with us today to support our FY 1992 budget request is John Truesdale, the Board's Executive Secretary, Melvin Welles, our Chief Administrative Law Judge, D. Randall Frye, Acting Deputy General Counsel, Yvonne Dixon, Assistant General Counsel, Joseph DeSio, Associate General Counsel, Gloria Joseph, Acting Director of Administration, Edward Blansitt, Executive Assistant to the Director of Administration, and Harding Darden, our Budget Officer. In accordance with normal procedure, the Agency has already submitted to you a detailed Fiscal Year 1992 Justification. In my testimony today I would like to briefly highlight the Justification statement and make a few additional comments as well.

The Fiscal Year 1992 budget now before you requests an appropriation of $162,000,000 compared to the 1991 appropriation of $147,461,000.

The Budget request before you for 1992 is the product of an analysis of the NLRB's best current estimate of the number of cases that the Agency will receive in 1992; how these cases will be resolved (that is, whether by settlement, dismissal, withdrawal, trial, etc.); the number of staff-years of employment needed, based on targeted rates of productivity; and, finally, the direct and support costs required to handle the anticipated caseload.

The Budget request presented to you today projects that the NLRB's case intake in 1992 will increase by about 1.8 percent, while staff will increase by about 1.0 percent. This budget request encompasses our fundamental objective of responding appropriately to every case on our docket each year. We expect to handle the increase in case intake and with a slightly higher staff, handle our cases on a timely basis.

The total 1992 request represents a $14,539,000 increase from 1991. The increased funding would meet higher normal operating expense requirements and employment expenses that are not completely offset by our expected productivity achievement.

The General Counsel has statutory responsibility for the investigation and prosecution of cases. He will be addressing these concerns separately. Directly under the responsibility of the Chairman and the Board are the Division of Administrative Law Judges and the staffs of the Board Members. I would like to briefly address these two areas at this time.

## ADMINISTRATIVE LAW JUDGES

In Fiscal Year 1990 our Administrative Law Judges closed 627 hearings, issued 602 decisions, obtained 97 settlements in person and another 305 by means of conference calls. A significant factor in this achievement is the emphasis within the Division of Administrative Law Judges, and in the operations under the responsibility of the General Counsel, on settling cases whenever possible. This settlement emphasis is critical. Settlements eventually save the Agency -- and taxpayer -- a great deal in litigation costs. In addition, settlements ensure that the parties themselves avoid the delays and costs inherent in the formal trial process and subsequent consideration by the Board and/or the Courts of Appeals. Thus, the effects of the fluctuation of the settlement rate are important indicators of costs in the years to come. This fluctuation has an inverse effect on the costs to be incurred in subsequent years: as the settlement rates rise, the costs for the future years in later stages of casehandling decrease (people-costs, equipment-costs, litigation-costs, etc.); as the settlement rates decrease, the costs increase.

Since FY 1987 the NLRB has loaned its Administrative Law Judges to other agencies on a reimbursable basis. We estimate that in FY 1991 these services will be provided to the Departments of Education, Interior, and Treasury; the Comptroller of the Currency; the Federal Deposit Insurance Corporation; the National Transportation Safety Board; and the Department of Justice's Immigration and Naturalization Service. The NLRB remains the primary source of judges when any agency makes a request to OPM for a loan of judges. However, with the attrition at our Judges Corps and the projected increased rate of intake, it is not certain that this program can continue in FY 1992. Also, present budget constraints, and the congressionally mandated hiring of judges by some agencies will also contribute to the decline in the loan program.

## MEMBERS' STAFFS

Under present budget estimates the Board Members will issue decisions in 580 contested unfair labor practice cases in 1991 and 592 in 1992. In 1990, the Board decided 577 unfair labor practice cases and 280 contested representation cases. Present estimates call for the Board to decide 282 contested representation cases in 1991 and 286 in 1992.

The Board has for the fifth consecutive year succeeded in lowering its backlog of undecided cases. The backlog peaked at 1,679 unfair labor practice and representation cases in February 1984. By the end of January 1991, that number had declined to 523 cases, a drop of 1,156 cases or about 70 percent. This reduction was achieved without an increase in the number of staff attorneys assigned to each Board Member and despite various funding reductions mandated by deficit reduction goals. The budget for 1992 anticipates that the Board will continue to reduce the number of cases awaiting its decision.

In addition to numerous initial decisions in contested election cases, the Board also rules on other appeals and requests for review of decisions made by the Regional Directors. In these cases, our budget also provides for remaining current even with an increased workload.

## GAO REPORT

Recently, the Board received a report by the General Accounting Office (GAO) entitled "National Labor Relations Board: Actions Needed to Improve Case-Processing Time at Headquarters." This report was prepared for the Committee on Government Operations, Subcommittee on Employment and Housing.

I am pleased to inform you that the Board has adopted GAO's suggestion for a two-year limit on issuing a decision and a time limit for each decision stage. It is our goal that by September 30, 1991, there will be no cases before the Board more than two years old. We also plan to reduce sharply, as soon as possible, the time frame for processing cases.

The National Labor Relations Board welcomed the GAO inquiry and gave it our complete cooperation.

## OUTLOOK FOR 1992

The NLRB plans to handle its expected caseload and increase productivity in Fiscal Year 1992 with a very small increase in staff. The Summary of Changes table beginning on page four of our Justification shows clearly that $11.7 million of the $14.5 million increase requested in 1992 would fund mandatory cost increases related to pay and space rent. A small share of the requested increased funding would support the disposition of the projected increase in caseload.

The continued absorption of pay increases has caused great pressure on our operating budget, which cannot be reduced below the 1992 request if the NLRB is to maintain effective casehandling operations. Reductions in these funds below the 1992 request will result in an increase in cases pending investigation. The median time for processing cases will rise because we will not have adequate staff or resources to handle cases within established time targets.

In FY 1990, the Agency responded to an unanticipated surge in case intake by diverting resources for subsidiary programs to casehandling. This type of activity is continuing into Fiscal Year 1991. We have cancelled training, which is vital to productivity growth, and we have not purchased the computer equipment as was planned in Fiscal Years 1990 and 1991 in order to keep every possible dollar available.

## CONCLUSION

It is my firm belief that the process afforded by the NLRB to resolve conflict is an essential contribution to an efficient United States economy. It is my intention to assure that the Agency will do all that is possible to resolve the labor disputes within its jurisdiction in a timely, professional manner. I offer you my further commitment to assuring that the NLRB's mission is carried out expeditiously and in the most cost-effective manner.

---

## STATEMENT OF JERRY M. HUNTER

Mr. Chairman and distinguished Members of the Subcommittee, it is my pleasure to appear before you as General Counsel of the National Labor Relations Board to discuss this Agency's budget request for Fiscal Year 1992.

As Chairman Stephens has said, the budget request before you is the product of an analysis of the NLRB's best current estimate of the total number of cases the Agency will receive in 1992; the pattern of disposition of those cases (that is disposed by either withdrawal, dismissal, settlement, or hearing); the employment required to process these cases based upon targeted rates of productivity; and the direct and indirect costs required to support the casehandling operations.

The Fiscal Year 1992 budget requests $162,000,000, an increase of $14,539,000 over the 1991 total funding of $147,461,000. While the Fiscal Year 1992 budget would increase by 9.9 percent, its scope remains limited because of cost pressures associated with new, government-wide pay increases, within-grade, promotions, and rental cost increases. It does not address the purchase or upgrade of important ADP equipment or other communication systems shown to have a positive effect on increasing productivity. Due to prior budget restrictions in 1990 and 1991, the Agency is compelled to channel its resources toward maximizing case dispositions while utilizing the existing level of operations. It is estimated that the Agency will process 35,270 unfair labor practice cases and 8,089 representation petitions, a total case increase of about 1.8 percent over 1991. The total 1992 staff request for the Agency is for 2,216 FTE.

As part of the normal budget process, the Agency has already submitted a detailed "Justification of Estimates for Fiscal Year 1992." I would like to take this opportunity to review in greater detail the responsibilities of the Office of the General Counsel, highlight our accomplishments in Fiscal Year 1990, and talk about the outlook for Fiscal Years 1991 and 1992.

## RESPONSIBILITIES OF THE OFFICE OF THE GENERAL COUNSEL

As you know, the National Labor Relations Act (29 U.S.C. 141-167) provides that the General Counsel "shall exercise general supervision over all attorneys employed by the Board (other than administrative law judges and legal assistants to Board members) and over the officers and employees in the regional offices. He shall have final authority, on behalf of the Board, in respect of the investigation of charges and issuance of complaints under Section 10, and in respect of the prosecution of such complaints before the Board, and shall have such other duties as the Board may prescribe or as may be provided by law."

Pursuant to this statutory authority, the General Counsel supervises the Agency's field establishment of thirty-three Regional Offices, which comprise about two-thirds of the total staff, as well as headquarters staffs of the Divisions of Advice, Enforcement Litigation, and Administration. It is the Regional Offices that receive unfair labor practice charges, investigate them, determine merit and then, as to those cases deemed meritorious, settle or prosecute them. Under authority delegated by the Board, the Regional Directors also receive and process representation petitions, determine appropriate bargaining units for employee representation, conduct elections, resolve allegations of objectionable election conduct and certify election results. Additionally, the General Counsel pursues enforcement of Board decisions by litigation in the U. S. Circuit Courts of Appeals and the U. S. Supreme Court.

The Agency has little control over its case intake. It must respond to all inquiries concerning possible violations of the National Labor Relations Act. When an unfair labor practice charge is filed in one of the Agency's 33 Regional Offices, 2 Sub-Regional Offices, or 17 Resident Offices, the charge begins to move through what can be described as a casehandling "pipeline." The newly filed charge is first investigated by a Board Agent. Non-meritorious cases are withdrawn or dismissed. If the case is found to be meritorious, the parties are encouraged to settle without further action. Absent settlement, an unfair labor practice complaint is issued and a hearing held before an Administrative Law Judge. Following the hearing and the Judge's decision, there may be further appeals to the Board and the Courts of Appeals. After enforcement of a Board order, we must obtain compliance with that order, be it collection of backpay, return of illegal fines, reinstatement to jobs, or other remedies. Compliance efforts can spawn a separate "pipeline" of litigation. Of course, at any point in the process the parties may reach a settlement which, if approved, obviates the need for further proceedings.

Each unfair labor practice charge brought before the Agency must be resolved. However, the further a case proceeds through the Agency's casehandling "pipeline," the greater are its demands on our resources. So that available resources are providently employed, we have identified four major objectives which we believe are critically important to our goal of processing cases in an effective and efficient manner. First, we carefully screen out clearly non-meritorious cases; second, we continue to emphasize our settlement programs, which are designed to maintain the NLRB's high settlement rate, provide a prompt remedy, and save taxpayer funds through avoiding the cost of formal litigation; third, we continue to develop more efficient means of casehandling in order to process quickly and fairly the maximum number of cases; and, fourth, we stress achievement of these objectives in tandem with a commitment to maintaining and improving the quality of our service to the public.

In order to meet the first challenge -- screening out non-meritorious cases --, the Office of the General Counsel utilizes an extensive public information officer program in our field offices. This program provides help to those who contact our offices about their concerns, including directing inquiries to the proper agencies when we do not have jurisdiction. Careful attention at this early, prefiling stage assures that we can screen out many no-merit charges, thus conserving Agency resources which would otherwise be expended in investigating non-meritorious charges if they were filed. It is through the administration of this important program that many thousands of persons are provided with guidance as to what this Agency can and cannot do for them, whether they should file a charge and, where appropriate, the identities and locations of other Federal or state agencies to which they might be referred for assistance. The effectiveness of this program is demonstrated by the fact that during Fiscal Year 1990 this Agency's field offices handled 218,873 such contacts from employees, unions, and employers, of which only 11,408 or 5.2% resulted in the filing of an unfair labor practice charge.

The second challenge, achieving the maximum number of settlements, involves a great deal of preparation, time, and effort on the part of the staff of the Office of the General Counsel. Administrative Law Judges will also aid the parties in an effort to reach a proper settlement. Even in the highly simplified description of the Agency's case "pipeline" just discussed, it is apparent that as a case progresses from the initial investigation by our field staff to its litigation before the Board and in the courts and eventually into compliance, the drain on Agency resources becomes increasingly severe. In fact, a decrease of one percent in the settlement rate for meritorious cases may result in an additional cost to the Agency of more than one million dollars by the time all of the additional work generated by fully litigating such cases is completed.

Our third challenge is the ongoing necessity, consistent with our traditional standards of high quality, to quickly process the maximum number of cases within our budget constraints. The NLRB has a long history of increasing its level of productivity and its success has been documented by the Bureau of Labor Statistics, the Office of Personnel Management, and by the Comptroller General.

Finally, and equally important, we are committed to maintaining quality casehandling and providing effective remedial action in Agency proceedings. This is accomplished by means of an extensive Quality Review program and careful attention to the training of our professional and support staffs.

## ACCOMPLISHMENTS IN FISCAL YEAR 1990

The record of the Office of the General Counsel in 1990 reflects the careful attention given to our responsibilities under the NLRA and to our obligation to conserve public funds. Both the Washington and field offices under the General Counsel's responsibility have consistently maintained a high level of service to the public. These offices are staffed by dedicated public servants and it is their commitment, with the assistance of this Committee in the budget process, that has made this fine record possible.

During the past several years we have experienced a significant increase in the number of cases requiring complicated efforts to achieve compliance with Board orders and court judgments enforcing those orders. Approximately 70 percent of these cases involve issues of alleged inability to pay or to comply with the remedies ordered by the Board and the courts, often requiring extensive financial analysis and negotiation as well as frequent searches for respondents who have physically moved and then resumed business under a new name to avoid compliance. Approximately 60 percent of all pending compliance cases involve situations where bankruptcy proceedings have been filed by the respondent. The number of compliance cases involving bankruptcy issues has more than doubled since 1978. Enforcement of the Act ultimately means obtaining compliance with Board and/or court orders and we must commit additional staff to this facet of our work. Otherwise, the Agency is reduced to a "paper tiger," winning legal victories without real-life consequences and completely voiding the intent of Congress.

Overall, the NLRB's impact on commerce has been considerable. In the last few years, we have been successful in ending unlawful work actions that closed entire ports; stopping secondary activity that threatened to involve an entire network of banks and a large insurance conglomerate in disputes not their own; and enjoining employers seeking to shut down operations or move in order to avoid a union organizing campaign. This latter action saved jobs in several small communities. This record, together with the very favorable comments of practitioners across the country about the quality of the service they receive, reflects the truly outstanding commitment of the Regional and Washington staffs.

The Agency processed a higher caseload than planned as total intake in FY 1990 increased 3.2% over the previous year. The time targets which have been traditionally established were met in most instances; however, the number of cases pending investigation rose as we were unable to quickly assign and investigate new charges near the end of the fiscal year.

Despite the funding problems, Field Offices were able to maintain most of the casehandling time targets as demonstrated on page 22 of the Justification.

## OUTLOOK FOR FISCAL YEAR 1991

Fiscal Year 1991 marks the second consecutive year of severe austerity for the National Labor Relations Board. Due to the absorption of government-wide pay increases, the Agency has had to reduce certain operating expenses to support staff needed to process cases. The cost of personnel compensation and benefits accounts for 80 percent of the total NLRB appropriation and space rent costs account for another 11 percent, which leaves almost no costs that can be deferred or reduced in order to absorb these mandatory increases.

The FY 1992 request is similarly austere. The table on page four and five of the Justification clearly points out that mandatory or built-in cost increases account for $11.7 million of the $14.5 increases. This will present a very difficult challenge in FY 1991 and an even greater challenge in 1992. The success of the Agency's field staff has been due in great part to our ability to get to disputes quickly and attempt to resolve them before formal litigation. Productivity increases are expected in almost every area of casehandling.

## OUTLOOK FOR FISCAL YEAR 1992

If the 1.8 percent increase in workload estimated for 1992 is reached, the Office of the General Counsel will face the challenge of providing current casehandling. While critically important elements of our casehandling, e.g. the settlement rate, are not totally within our control, I am confident that, with the dedication and hard work of our employees and competent direction of our managers and supervisors, we will meet our goals.

The Fiscal Year 1992 budget is a very austere budget that will support casehandling operations at the current rate, but will eliminate for the second consecutive year our training programs and improvements in our ADP/office automation programs. Indeed, maintenance of our current ADP/office automation program is problematic. Further reductions in funding would undoubtedly bring about greater casehandling delays.

## CONCLUSION

In closing I wish to thank the Committee for the opportunity to appear and for your continued support.

## OLDEST CASES

Senator **Specter**. I have a question or two about matters that come out of my jurisdiction. When you say that you will seek to have a calendar where no case is older than 2 years, that seems to me to be too long and very problematic. What is the oldest case you currently have?

Mr. **Stephens**. *Continental Winding* is the case and I believe that it is about 6 years old, that case.

Senator **Specter**. What is the justification for that?

Mr. **Stephens**. There is an issue in that case that is related to a lead case that we are working on now. And our hope is that once we get the lead case out, we can get the *Continental Winding* case out.

## LEAD CASES

Senator **Specter**. How long has the lead case been pending?

Mr. **Stephens**. Dubuque Packing has been at the Board about—I would say about 1½ years.

Senator **Specter**. Why is the 4-year-old case dependent upon the other case?

I don't wish to inquire into anything that is a pending judicial matter, and may I be explicit that the judicial function of your agency is within your own discretion. But as we assess the resources which your Board has to get its job done, this subcommittee and the full Congress is very concerned about prompt treatment. So I want you to bear in mind that I am not looking at any of the substantive matters, but why is a 4-year-old case tied into a 1½-year-old case?

Mr. **Stephens**. The problem that the Board experienced in the past is that we went for long periods of time throughout the 1980's with turnover and vacancies at the Board, and we found it extraordinarily difficult to fashion majority positions for the Board, that could then be articulated in Board decisions which then are reviewable by the courts of appeals.

Senator **Specter**. Why does it take so long?

Mr. **Stephens**. Pardon?

Senator **Specter**. Why?

Mr. **Stephens**. Well, the problem partly was due to the confirmation process, that there were difficulties in——

Senator **Specter**. You have a full Board now?

Mr. **Stephens**. We now have a full Board. As of August of last year is the first time in 3 years that we had a fully confirmed, five-member Board that was able to do its business.

Senator **Specter**. Even if you do not have a fully confirmed Board, you can still make decisions, just like the Supreme Court of the United States does when there are vacancies there.

Mr. **Stephens**. We can, and that is true, and we did. I think we made commendable progress during those times when we did not have a fully staffed, full-member Board.

Senator **Specter**. OK, can you tell me why you have a case which is older than 4 years?

Mr. **Stephens**. Yes; the reason is that the issue presented in the *Continental Winding* case has to do with the duty to bargain over relocation of bargaining unit work. The Board's most recent pronouncement on that particular issue dates back to the early 1980's, when there was not a majority position articulated back then. The Board had a 2-2-1 position. Two members advocated one position, two members advocated another position, and a fifth member advocated yet another position.

### DUBUQUE-PACKING

We limped along with that essentially divided Board position for several years, until finally the D.C. Court of Appeals in the *Dubuque Packing* case said that it was necessary for the Board to adopt a majority position that represented the views of at least three Board members.

Unfortunately we were never able to do that until just this last year, when we had five Board members confirmed on the Board. We held oral argument in the *Dubuque* case—I think it was within 2 weeks after the fifth Board member finally came on board, and the Board since then spent the better part of 3 to 4 months debating the issue.

We have taken the votes. The decision is now being written up, and it is one of the cases that we have given high priority to. The result that we reach in the *Dubuque Packing* case is going to govern how we dispose of the *Continental Winding* case. It is not really an administratively efficient way to conduct operations any other way. If we go ahead and decide Continental Winding on the basis of what is a position that has been rejected by the D.C. Circuit Court of Appeals, if we issue that decision, I am sure the nonprevailing party would take an appeal to the D.C. Circuit. They would send the case back to us and tell us to try again.

Senator SPECTER. But the D.C. Circuit has not told you how to decide it. They just told you to decide it.

Mr. STEPHENS. That is right.

Senator SPECTER. If you have the same issue pending in the older case, that is more than 4 years old, why do you now address the issue in that case?

Mr. STEPHENS. It was our judgment that the *Dubuque* case, the younger case, was a more appropriate vehicle for addressing this particular issue. It was a judgment call just based on the facts.

### ISSUANCE OF OPINION

Senator SPECTER. How soon do you expect to have the opinion out?

Mr. STEPHENS. It is very risky to make estimates. I would like to see it out in 2 months if I could. Actually, I would like to see it out in the next couple of weeks. Based on where we are in the case I would say that probably 2 months might be the best estimate.

Senator SPECTER. But what you have pending is just the articulation or the writing of an opinion, because the case has been decided?

Mr. STEPHENS. The Board members have taken a vote on a position, and it is now being drafted now. It is as if the Supreme Court had heard oral argument in the case, they have conferenced it, they have cast the votes, and the staff is now putting together the opinion for circulation to the members.

Of course that will have to be reviewed, and commented on.

Senator **Specter**. Commented on by whom?

Mr. **Stephens**. By the Board members.

Senator **Specter**. It is a little hard to comment without, I suppose, knowing more of the detailed facts, but I know that the Supreme Court of the United States turns out opinions faster than that. I know that in England the appellate courts sit and hear argument and return to the bench and articulate opinions. They do not have to be works of art. The object is to get the cases decided with a statement of your reasons. It just seems very long.

When you finish that judgment, would you supply the subcommittee with the opinions?

Mr. **Stephens**. Yes, sir.

Senator **Specter**. And a chronology as to how long such a step took, so we can take a look at it?

### STAFF RESOURCES

Would you be assisted by more funds to have a more extensive staff to help you get this done?

Mr. **Stephens**. Well, I think the agency could always use more funds. What we have found, I think, is that——

Senator **Specter**. Do you have insufficient staff to deal with this specific case?

Mr. **Stephens**. We have sufficient staff to deal with this particular case, yes. We are in a hiring freeze right now, and we really need to experience attrition throughout the agency in order to not overspend our appropriations for this fiscal year. We have lost some staff at the Board level, which we have not replaced. But given the levels of intake, I think we still feel that we can keep on top of things.

As I indicated, we are at about the lowest level we have been in 10 years in terms of our case backlog. As I also indicated, we had, in terms of oldest cases at the Board, as I said, 1987 we had 300 cases that were over 2 years old, and I expect that by the end of this month, in 10 days, that we will be down to 8 or 9 cases that will be 2 years old. Most of those are held up because of, in one case it is held up because the Supreme Court is considering our rulemaking decision.

A couple of other cases are tied to the *Dubuque Packing* case, which I mentioned to you, and there are a couple of other cases tied to another lead case issue on the employer's duty to disclose information, financial records, to the union.

Senator **Specter**. Without going into any of the specifics of those cases any more because of time limitations, I would appreciate it if you would provide to the subcommittee an assessment as to how your work could be assisted if you had more resources. Give us specific dollar figures and how they would be allocated. I do not think that it is a desirable situation to have cases which are pending for 2 years or more.

## PROGRAM TO FLAG OLD CASES

Mr. **Stephens**. I could not agree with you more, Senator, and our goal has been that once we clean out the 2-year-old cases we then, through a system that we have set up in the last 6 months, which we call a 6–6–6 program, flag cases that as it goes through our three-stage decisional progress. As cases are in a stage more than 6 months, they are specifically flagged. The Board members themselves focus attention on what seems to be the delay. Our goal is to take some action to try to speed the case along.

I am hopeful that once we get the 2-year-old cases out of the way, we can then set another benchmark to reduce it even further. I could not agree with you more.

Senator **Specter**. What do you think is an acceptable backlog time?

Mr. **Stephens**. To process a case? The 2-year-old case is the rare exception, 181 days is the median time for processing our cases. That is 6 months.

Senator **Specter**. I had written to you, as you may recall, back on January 9, 1991, about NLRB case No. 4CA17616, which was an appeal filed on October 18, 1989. The chairman has another case. There are lots of other cases, but I am using these illustratively. You wrote back to me, on January 17, or the Deputy Executive Secretary Joseph E. Moore did, saying that the case was under consideration.

Again I emphasize I am making no inquiry as to how you are going to decide the case, but if you have an idea as to when?

Mr. **Stephens**. I am not sure. Is that the *Century Wine and Spirits* case?

Senator **Specter**. It is *Teamsters Local Union No. 326* v. *NKS Distributors*.

[Pause.]

Mr. **Stephens**. This is a long, difficult case, but my understanding is that if everything falls into place we could have it out within 1 month.

## EFFECTUATING REGIONAL DIRECTORS DECISIONS

Senator **Specter**. Thank you. Let me call one other case to your attention, which I have not written to you about, which was just recently called to my attention.

This is case No. 4RC17313, and it is a case where there was an election on May 14, 1990, and a challenge to the election was made. The objections were filed on May 18, 1990, and the objections were dismissed by the regional director of the NLRB in Philadelphia on November 21, 1990, and exceptions to the regional director's dismissal were filed on December 17, 1990. The matter is now pending before the NLRB, and this timeframe does not pose a situation of any delay.

The question I have is, is there any procedure available in your agency where the ruling of the regional director would be the law or would be effectuated until an appeal was decided, unless there were some ground for granting a supersedeas. Customarily, in a judicial proceeding, if a court rules, or an adjudicatory body rules, then that is the law, and the winning party ought to be able to go ahead and proceed with their victory, because it dissipates with people moving away, and the victory becomes a nullity if so much time passes that it cannot be carried out.

So I make this inquiry as to whether there is some process possible where that victory stands, or that adjudication stands, pending the appeal, unless there is some reason to grant a supersedeas.

Mr. STEPHENS. The problem, of course, Senator, is that even the Board orders are not self-enforcing. Congress has not given us the power to issue self-enforcing orders. We have to go the court of appeals to get an enforcement.

### SELF-ENFORCING BOARD ORDERS

Senator SPECTER. Would you like that power?

Mr. STEPHENS. Pardon?

Senator SPECTER. Would you like that power?

Mr. STEPHENS. I think that is a political judgment that the Congress would have to make. I mean, there are obviously arguments——

Senator SPECTER. How about a recommendation from the Chairman of the Board?

Mr. STEPHENS. I think I would want to study it more before I would make a recommendation. Let me add that even in the representation area the decisions of the Board cannot be immediately reviewed by the court of appeals. Congress ordained that the losing party would have to commit what is called a technical 8(a)(5), a refusal to bargain, which then the Board proceeds on with a separate proceeding, through a complaint, an order.

It then goes to the court of appeals, and in the context of an unfair labor practice, the representation issue, which might have been the subject of the objections, is then reviewed. That is the system that we deal with.

Senator SPECTER. Chairman Stephens, your response provides a fruitful area of discussion which could take us the rest of the day. There are many other matters to be inquired into before your group, and others are to follow.

So I would appreciate it if you would submit in writing an opinion, your view as to whether you ought to have enforcement powers without going to the court of appeals. Take whatever time you need on that, reasonably.

Second, I would like in writing a response to whether a procedure could be structured which would allow the regional director's decision to be carried out, unless there is some supersedeas, question No. 2. And third, I would like to know an estimated timeframe for this specific case, where I have had a constituent inquiry. And that is in case No. 4RC17313.

Senator SPECTER. Again, I emphasize that I respect the independence of the NLRB in coming to the conclusion on the merits. But the timing factor, and the processing I think is an appropriate area for consideration by this subcommittee. This way we can provide whatever resources are warranted to let you carry out your duties in a timely fashion.

Mr. STEPHENS. Thank you very much.

Senator SPECTER. Thank you very much, Mr. Chairman.

## GAO STUDY

Senator **Harkin**. I wanted to pick up a little bit on Senator Specter's question, talking about the backlog, and your response basically was you talked about the Board turnovers and the vacancies and things. You are familiar with the GAO study?

Mr. **Stephens**. Intimately.

Senator **Harkin**. They said there were three reasons: (1) Lack of standards and procedures to prevent excessive delays; (2) lack of timely decisions on major issue cases that delayed related cases; and (3) Board member turnover and vacancies.

Mr. **Stephens**. Right. I think, though, that the Board turnover and vacancies was the root cause of the problem, which in turn was related, then, to the time for processing of lead case issues. Unlike today's situation, if you go back about 8 years, to 1984—and in 1984, we had a major turnover of membership at the Board—the Board at that point, as constituted then, began a major or a comprehensive review of a lot of the Board decisions.

The Board then decided to overturn and modify a lot of Board decisions, and of course to do that required three members joining in a majority position. The Board at that time found it difficult to do that with great speed.

Senator **Harkin**. Why? You had three members.

Mr. **Stephens**. But you have to have three members agreeing to a result and a rationale. You cannot have three members just agree to the result. There has to be a majority position that represents the position of the Board. Otherwise it just does not pass review in the court of appeals.

Senator **Harkin**. You mean two out of three.

Mr. **Stephens**. Well in some instances you need—you have to have a full Board disposition to overturn a previous rule.

## OVERTURNING A BOARD RULE

Senator **Harkin**. Well, it says here most cases are decided at the Board by three-member panels rather than the full five-member Board.

Mr. **Stephens**. That is right, but a three-member panel that votes 2 to 1 on a position cannot overrule a previous Board rule. You need to have three Board members to overrule a Board rule.

Senator **Harkin**. There is something I am not understanding. Maybe I just do not understand the functions of the Board that well. It almost seems like you are saying to me that the Board made a decision. A new Board came in, decided to reopen it again.

Mr. **Stephens**. It did not reopen the case. They decided to reexamine a rule, a decision of the Board.

Senator **Harkin**. Why?

Mr. **Stephens**. Well, because the new Board decided that the rule did not represent the best policy interpretation of the act.

Senator **Harkin**. This thing can go on forever.

Mr. **Stephens**. Well, as a practical matter they do not.

Senator **Harkin**. Just a second. How many of these happen, where the Board would decide something, then a new Board came in and decided they did not like that position?

Mr. STEPHENS. I think it is rare. I mean, I think that the early 1980's were an aberration.

Senator HARKIN. If it is so rare, then, how did that contribute to the backlog?

Mr. STEPHENS. Because back then you had—the way the Board was constituted, you did not have three solid votes, three Board members all thinking in the same wavelength, all agreeing to the same rule or rule change. They were not in a position to go in and reexamine 30 or 40 different policy issues, change the rule, issue the decision, and then apply it to pending cases.

And that was back then. Today we do not revisit, we are not engaged in the wholesale revisiting of many policy issues before the Board. And the reference in the GAO report to most of the decisions being decided in three-member panels, that is true, because a vast majority of our work deals with the routine application of an established rule to the facts of a particular case.

And in those cases there, even when it is 2 to 1, we can still get the case out without any problem. The problem comes up when you are encountering a case where Board members decide they want to change the rule. And to change the rule you need three votes to do that. If you are a Board that is so philosophically split, and the Board members are independently minded, and you cannot get the three votes, then you cannot change the rule.

I think that what happened back in the early and mid-1980's is that when you could not get a majority position to change the rule, rather than just let the case go out and be decided under the old rule, the case just got held up waiting for more turnover at the Board, on the chance that a new Board member would agree to change.

Senator HARKIN. This sounds like the system was built for backlogs.

Mr. STEPHENS. My experience has been that when you have a fully constituted and confirmed Board, and each of the Board members are committed to the process, they are committed to the collegial decisional process and are working toward getting the cases out in a timely manner, the system is going to work.

But I think the fact is that there is enough discretion and play built into the system and, given the problems that come up when you have vacancies, where appointments are not made and confirmed in a timely manner, it is just like throwing sand in a Swiss watch. It just begins to break down.

It has been a long, hard row to hoe, but I think that we have climbed out of that. I think our statistics bear that out. The one thing that I think you have to realize about the General Accounting Office report is that it was reporting on a period from the early 1980's through the late 1980's. By the time the report issued, I think it had more of an historical interest than a comment on a current situation at the Board.

I mean, our statistics now are the best they have been in 10 years.

## GAO REPORT RECOMMENDATIONS

Senator **Harkin**. The recommendations made by GAO for establishing standards for the total length of time a case should be at the Board, and a time for each decision stage that (1) exceeded requires corrective action and (2) specify the corrective actions that Board members and staff should take when those targets are exceeded. Those were two recommendations by the GAO.

Mr. **Stephens**. And we adopted those, and as a matter of fact we did send the subcommittee, to you, Senator, a copy of our letter—it was dated March 6—which is our response to the GAO report. That was sent just a couple of weeks ago, to report on the fact that we have agreed with the recommendation and we have implemented it.

Senator **Harkin**. We have been very busy, but my staff has not seen it yet. We will certainly take and make sure we find that up there.

## ADMINISTRATIVE LAW JUDGES

Let me just ask you about the administrative law judge. In past years we have discussed NLRB's overstaffing of administrative law judges, and the decline in the number of administrative law judges loaned out to other agencies as needed.

This year I received a letter from you stating that the increase provided in 1991 was inadequate to cover the Board's mandated pay increases. By my calculations your agency is spending about 91 percent of its current budget on fixed costs such as personnel and rent. This leaves very little discretionary money available for ongoing needs. How many administrative law judges are currently employed by the Board?

Mr. **Stephens**. We have 81 judges now.

Senator **Harkin**. How many were loaned out on a reimbursable basis during fiscal year 1990?

Mr. **Stephens**. I think we loaned out about nine judges.

Senator **Harkin**. What do you believe is the appropriate number of administrative law judges required to handle the current caseload?

Mr. **Stephens**. I think that if our caseload stays at the level last year, we could foresee loaning out probably somewhere around that number again. But if our caseload does go up, we would expect not to be able to loan out that many judges. I think it is going to be a fairly fluid situation.

Senator **Harkin**. I guess what I am getting at, and I think you have probably surmised what I am getting at, is that there is a feeling that the overstaffing of administrative law judges and the dollar amount associated with the Office of Administrative Law Judges is really contributing to the inability of the Board to address field problem—clerical staff in the field, getting people out there on those cases—and that you just got a whole bunch of administrative law judges that have been around a long time.

## EARLY RETIREMENT PROGRAM

That is where the money is going, and we need to free up some of those. Now, do I understand that OPM has allowed early outs for some of them?

Mr. **STEPHENS**. Yes; they have given us authority for early out, and we have sent the notice out to the entire agency, including the judges. They have until next month to let us know whether or not they want to take advantage of the early-out program.

I think that one thing that has to be kept in mind is that, if we were to determine, for example, given our caseload level, we could get by with 10 or 15 fewer judges, then I think we really do not have much discretion in the way in which we could reduce that number. If we wanted to have a reduction in force, the cost associated with a reduction in force would be much more than what we would save in the way of reduced salary expenses. It is just not cost efficient to just at this point cut out a number of judges.

The other thing that we would have to take into account is that, through, say, a reduction in force, is that our youngest judges or those with the least seniority would be the ones to go first, and yet we are now faced with a situation, looking ahead several years, where most of our judges are reaching eligible retirement age. We do not foresee, with the pay increase that has now been enacted by Congress, really see much attrition over the next 3 years.

We expect the judges to stay on to maximize their retirement benefits, and that once we get to the third year, and they have maximized their benefit formula, we are going to see a mass exodus of judges at the Board. We think it is absolutely essential that we keep intact as much of the judges as we can. Otherwise, we will face a situation in several years, where our oldest, most senior judges will be gone. If in the meantime we have RIF'd a number of the younger judges, we are going to be left, I think, really without the kind of experienced corps of judges that we need.

So I think that we felt that the loan program was the most efficient way to deal with the theoretical overstaffing levels, by lending them out to other agencies, being reimbursed, and helping ease the budget problem.

## ADMINISTRATIVE LAW JUDGE LOAN PROGRAM

Senator **HARKIN**. What is in the 1992 budget for reimbursement for loaning out?

Mr. **STEPHENS**. We did not put any money in, because again, I think we view the situation is somewhat fluid, and we do not know at this point, based on our caseload, what we are going to be able to afford to loan out.

Just as we are sensitive to the case processing time at the Board level, we also want to be sensitive to case processing time at the administrative law judge stage of the process. If we would feel that there is too much time elapsing at that stage, we would want to be able to devote more judicial resources to deciding the cases.

### BOARD JURISDICTION

Senator **Harkin**. Two other items. I wrote a letter to Joseph Moore, Deputy Executive Secretary, on the first of March. I received a letter back. It is regarding a request I had from constituents of mine in Iowa, who are organizing people that work in dog tracks, the racing industry in Dubuque, IA. They are organizing dog tracks.

Well, the State says they are not public employees, even though it is sanctioned by the State. Obviously, they work for a private entity sanctioned by the State. The International Union of Operating Engineers, petitioned to gain recognition by the NLRB. The petition was denied by the NLRB. I wrote a letter asking why. I got a letter back. It said, and I will read you the second paragraph.

It said:

> Section 14(c)(1) of the act provides that the Board in its discretion may decline to assert jurisdiction over any labor dispute involving any class or category of employers where, in the opinion of the Board, the effect of such labor dispute on commerce is not sufficiently substantial to warrant the exercise of its jurisdiction * * *.

Acting pursuant to 14(c)(1) the Board has consistently declined to assert jurisdiction over the horse racing and dog racing industries, and then cites a case, a 1979 case.

Now, again, my question, is this a discretionary thing of the Board? Here is an industry right on the border of a State. It is involved substantially in commerce, since the entities in the track, I guess the dogs and stuff like that, go across State lines. Obviously the people who go there come from Illinois, Wisconsin, and Iowa, all three States.

There is substantial interstate commerce involved, and I am wondering why the Board is saying they do not have jurisdiction over it, because they cannot go to the State, because the State says they are not State employees. Would you look at that again?

Mr. **Stephens**. I will be glad to look at that, Senator.

Senator **Harkin**. Look at that, and let us see what the situation is. I cannot tell you that I have any real specific understanding of it, either, but it seems to me that here is a case where it is involved in interstate commerce, and why you cannot be involved in that, I do not know, and have jurisdiction over it.

Mr. **Stephens**. I would be glad to provide a fuller explanation of that for the record. Let me just indicate in passing, I think that the Board position—and this has been the position for a number of years—is not rooted so much in whether or not we have interstate commerce implicated, but I think the Board early on took note of the fact that the horse racing industry, where the issue first arose, was so heavily regulated by States that the Board opted as a policy matter to not get into the regulation of employees in an industry that itself is highly regulated by the States.

I think that is the root of the matter, and not so much whether or not there is impact on interstate commerce. But I can give you a more complete explanation and send you the cases where that view is articulated. I believe it has been upheld by the circuit courts of appeals that have reviewed it and we can provide that as well.

[The information follows:]

## LETTER FROM JAMES M. STEPHENS

Honorable Tom Harkin
United States Senate
Washington, DC 20510-1502

April 3, 1991

Dear Senator Harkin:

I am writing in further response to your question concerning the Board's jurisdiction over labor disputes in the horseracing and dogracing industries. On March 8, 1991, Deputy Executive Secretary Joseph E. Moore responded to your earlier inquiry on behalf of Local 758, International Union of Operating Engineers.

As Mr. Moore's letter indicates, the Board has, within the discretion provided to it by Section 14(c)(1) of the National Labor Relations Act, declined to assert jurisdiction over horseracing, dogracing and related industries. Section 103.3 of the Board's Rules and Regulations contains the Board's decision in this matter and I have enclosed a copy for your consideration. As the explanatory material accompanying Section 103.3 indicates, the Board's decision to decline jurisdiction over these industries is grounded in the extensive control that the States have exercised over them. The Board decided that this "unique and special relationship" between the States and these industries warrants leaving the regulation of labor relations of these industries to the States. Additionally, the Board was persuaded to decline jurisdiction by the "relatively unstable workforce in these industries."

In 1979, the Board in American Totalisator Company, Inc., 243 NLRB 314 (1979) reaffirmed Section 103.3. Several years later, the Court of Appeals for the Second Circuit sustained the Board's position on this matter in New York Racing Association, Inc. v. NLRB, 708 F.2d 26, 113 LRRM 2746 (2d Cir. 1983). (Copy enclosed).

I trust the foregoing is responsive to your inquiry. Please do not hesitate to contact me if I can be of any further assistance to you in this matter.

Sincerely,

James M Stephens

James M. Stephens
Chairman

Enclosures

**Sec. 103.3** *Horseracing and dogracing industries.*—The Board will not assert its jurisdiction in any proceeding under sections 8, 9, and 10 of the act involving the horseracing and dogracing industries.[*]

### DECLINATION OF ASSERTION OF JURISDICTION

On July 18, 1972, the Board published in the Federal Register a notice of proposed rulemaking which invited interested parties to submit to it (1) data relevant to defining the extent to which the horseracing and dogracing industries are in commerce as defined in section 2(6) of the National Labor Relations Act, and to assessing the effect upon commerce of a labor dispute in those industries, (2) statements of views or arguments as to the desirability of the Board exercising jurisdiction, and (3) data and views concerning the appropriate jurisdictional standards which should be established in the event the Board decides to promulgate a rule exercising jurisdiction over those industries. The Board received 96 responses to the notice. After careful consideration of all the responses, the Board has concluded that it will not assert jurisdiction over the horseracing and dogracing industries. A rule declining to assert such jurisdiction has been issued concurrently with the publication of this notice.[1]

The jurisdiction of the National Labor Relations Board under section 9 of the National Labor Relations Act, as amended,[2] to determine questions concerning representation, and under section 10 of the act to prevent unfair labor practices, extends to all such matters which "affect commerce" as defined in section 2(7) of the act.[3] Under section 14(c) of the act,[4] the Board in its discretion may decline to assert jurisdiction over labor disputes involving any class or category of employers if such labor disputes will not have a substantial impact in commerce and provided that it had not asserted jurisdiction over such class or category prior to August 1, 1959. The Board has consistently declined to assert jurisdiction over labor disputes in the horseracing and dogracing industries[5] as well as over labor disputes involving employers whose operations are an integral part of these racing industries.[6] After carefully considering the responses, the Board has decided not to alter its position with respect to the horseracing and dogracing industries and has concluded that it will continue to decline to assert jurisdiction over labor disputes in these industries.

In prior decisions, the Board declined to assert jurisdiction over these industries noting, *inter alia*, the extensive State control over the industries. It appears that State law sets racing dates of the tracks; State law determines the percentage share of the gross wagers that goes to the State; and State law determines the percentage of gross wagers to be retained by the track. In addition, the State licenses employees, exercises close supervision over the industries through State racing commissions, and in many States retains the right to effect the discharge of employees whose conduct jeopardizes the "integrity" of the industry. As the industries constitute a substantial source of revenue to the States, a unique and special relationship has developed between the States and these industries which is reflected by the States continuing interest in and supervision over the industries.

---

[*] The following statement was published by the Board concurrently with the issuance of this rule, 38 F.R. 9537.

[1] See title 29, ch. I, pt. 103, *supra*.

[2] 61 Stat. 140, 143, 146, 29 U.S.C. secs. 158, 159, 160.

[3] 61 Stat. 137, 29 U.S.C. sec. 152(7). See *N.L.R.B. v. Fainblatt et al.*, 306 U.S. 601.

[4] 29 U.S.C. sec. 164.

[5] *Los Angeles Turf Club, Inc.*, 90 NLRB 20 (horseracing track); *Jefferson Downs, Inc.*, 125 NLRB 386 (horseracing track); *Meadow Stud, Inc.*, 130 NLRB 1202 (horse owner/breeder); *Hialeah Race Course, Inc.*, 125 NLRB 388 (horseracing track); *Walter A. Kelley*, 139 NLRB 744 (horse owners/breeders); *Centennial Turf Club, Inc.*, 192 NLRB 698 (horseracing track); *Yonkers Raceway, Inc.*, 196 NLRB 373 (horseracing track); *Jacksonville Kennel Club*, Case 12–RC–3815, May 5, 1971 (dogracing track) (not reported in NLRB volumes).

[6] *Pinkerton's National Detective Agency*, 114 NLRB 1363; *Hotel & Restaurant Employees & Bartenders International Union, Local 343 (Resort Concessions, Inc.)*, 148 NLRB 208.

In addition, the sporadic nature of the employment in these industries encourages a high percentage of temporary part-time workers and results in a high turnover of employees and a relatively unstable work force. This is further evidenced by a pattern of short workhours and sporadic and short periods of active employment with any given employer.

Besides minimizing the impact on commerce of the industries, this pattern of short-term employment also gives us pause with respect to the effectiveness of any proposed exercise of our jurisdiction in view of the serious administrative problems which would be posed both by attempts to conduct elections and to make effective any remedies for alleged violations of the act within the highly compressed timespan of active employment which is characteristic of the industries.

Thus, we have concluded that the operations of these industries continue to be peculiarly related to, and regulated by, local governments and, further, that our exercise of jurisdiction would not substantially contribute to stability in labor relations. We are also not unmindful of the fact that relatively few labor disputes have occurred in these industries in recent years, thus reaffirming the Board's earlier assessment that the impact of labor disputes in these industries is insubstantial and does not warrant the Board's exercise of jurisdiction.[7]

Accordingly, for the above reasons, the Board[8] reaffirms its earlier conclusion and declines to assert jurisdiction over these industries.

Member Fanning does not join in the Board's conclusion to decline to assert its jurisdiction over the said industries, based on the reasons spelled out in his dissenting position in *Centennial Turf Club, Inc.*, 192 NLRB 698.

---

[7] *Walter A. Kelley, supra.*

[8] Chairman Miller and Members Jenkins, Kennedy, and Penello.

contrary, that Congress intends by its silence that we follow the usual rule.[1] In Auto Workers v. Hoosier Cardinal Corp., 383 U.S. 696, 61 LRRM 2545 (1966), we applied the "norm" to a suit under §301 of the Labor Management Relations Act, 29 U.S.C. §185. I see no reason in this case to depart from our usual practice of borrowing state law, for we have no contrary indications strong enough to outweigh our ordinary presumption that Congress' silence indicates a desire that we follow the ordinary rule. As a result, I would look to state law for a limitations period. For the reasons given by JUSTICE STEVENS in his separate opinion in United Parcel Service, Inc. v. Mitchell, 451 U.S. 56, 72-74, 107 LRRM 2001 (1981), I think that a malpractice action against an attorney provides the closest analogy to an employee's suit against his union for breach of the duty of fair representation, and I would apply the state's statute of limitations for such an action here. In DelCostello's action against his employer, I, like JUSTICE STEVENS, would follow Mitchell.[2]

## NEW YORK RACING ASSN. v. NLRB

U.S. Court of Appeals,
Second Circuit (New York)

THE NEW YORK RACING ASSOCIATION, INC. v. NATIONAL LABOR RELATIONS BOARD, et al., Nos. 82-6252 and 82-6258, May 10, 1983

### LABOR MANAGEMENT RELATIONS ACT

**1. NLRB decision to decline jurisdiction — Scope ► 43.601 ► 43.05**

Decision to decline jurisdiction is "committed to agency discretion" under Section 14(c) of LMRA. Provision in question not only speaks of NLRB's "discretion" in general way, but it also specifically grants Board power to decline jurisdiction "where, in the opinion of the Board," effect of such labor dispute on commerce "is not sufficiently substantial to warrant the exercise of its jurisdiction"; even if effect on commerce of disputes in particular case or industry is substantial, Board has power to make judgment that assertion of jurisdiction is not warranted; impact of labor disputes on commerce, rather than that of industry, is made primary consideration.

**2. Horse-racing industry — NLRB decision to decline jurisdiction — Jurisdiction of court — Administrative Procedure Act ► 43.601 ► 43.05 ► 40.10**

Federal district court lacked jurisdiction to review (1) substance of NLRB's promulgation of administrative rule providing that it would not assert jurisdiction in any proceeding involving horse-racing industry and (2) Board's subsequent refusal to repeal or amend that rule, where Board's decisions fall within Administrative Procedure Act's exemption from judicial review of actions committed to agency discretion by law. Decision to decline jurisdiction is "committed to agency discretion" under Section 14(c) of LMRA; in promulgating rule, Board properly considered such factors as extensive state regulation of horse-racing industry, "unique and special relationship" between states and industry, relative infrequency of labor disputes in industry, sporadic and short-term employment, marked by high turnover, difficulty posed for effective Board regulation, and Board's current workload.

**3. Horse-racing industry — NLRB decision to decline jurisdiction — Promulgation of rule — Administrative Procedure Act ► 43.601 ► 40.10 ► 43.05**

NLRB's promulgation of rule that it would not assert jurisdiction in any proceeding involving horse-racing industry and its subsequent refusal to repeal or amend that rule were procedurally sound, where Board complied with all requirements for agency informal rulemaking set out in Administrative Procedure Act; there is no statutory requirement that Board reopen its rulemaking procedure or hold hearings in response to petition by interested person to amend or repeal rule, but Board gave full consideration under its rules to petitions of horse-racing association and others to repeal or amend rule, and issued reasoned opinion denying them.

---

[1] I believe, basically for the reasons given by the Court, ante, at 7, n. 13, that our practice of borrowing state periods of limitations depends largely on this general guide for divining congressional intent. See, e.g., Auto Workers v. Hoosier Cardinal Corp., 383 U.S. 696, 704, 61 LRRM 2545 (1966); Holmberg v. Armbrecht, 327 U.S. 392, 395 (1946). I agree with the Court that the Rules of Decision Act, 28 U.S.C. 1652, only puts the question, for it simply requires application of state law unless federal law applies. See ante, at 7, n. 13. Therefore, I am unable to join JUSTICE STEVEN's dissent. My disagreement with the Court arises because I do not think that federal law implicitly rejects the practice of borrowing state periods of limitations in this situation.

[2] It is quite appropriate to apply Mitchell retroactively. Mitchell did not represent a "clear break" with past law, see Mitchell, 451 U.S., at 61-62, application of its rule in this case would further the goal of promoting early finality for arbitral awards, id., at 63, and there is no inequity in applying the rule here. See Lawson v. Truck Drivers, Chauffeurs & Helpers, 698 F.2d 250, 254, 112 LRRM 2553 (CA6 1983); see generally Chevron Oil Co. v. Huson, 404 U.S. 97 (1971).

**4. Horse-racing industry — NLRB decision to decline jurisdiction — Judicial review ► 43.601 ► 43.05 ► 47.05**

Federal district court lacked jurisdiction to review NLRB regional director's denial of horse-racing association's petition requesting Board to take jurisdiction over it and conduct investigation and certification of representatives under Section 9 of LMRA, where regional director based his denial on Board policy, embodied in administrative rule, not to assert jurisdiction over any labor disputes in horse-racing industry; rule was promulgated under statute granting Board almost unlimited discretion to take or decline jurisdiction.

---

Appeal from the U.S. District Court for the Eastern District of New York (110 LRRM 3177). Reversed.

Henry Bisgaier (Cahill Gordon & Reindel, Joel C. Balsam, William L. Dennis, P.C., and Richard Coll, of counsel), New York, N.Y., for N.Y. Racing Assn.

Corinna Lothar Metcalf (William A. Lubbers, General Counsel, John E. Higgins, Jr., Deputy General Counsel, Robert E. Allen, Associate General Counsel, and Aileen A. Armstrong, Assistant General Counsel for Special Litigation, of counsel), for NLRB.

Norbert M. Phillips, General Counsel (James M. O'Neill, of counsel), for New York State Labor Relations Board.

Before FEINBERG, Chief Judge, LUMBARD, Senior Circuit Judge, and KEARSE, Circuit Judge.

## *Full Text of Opinion*

FEINBERG, Chief Judge: — This appeal raises complex questions regarding the jurisdiction of a district court to review a decision of the National Labor Relations Board declining to take jurisdiction over labor disputes in a particular industry.[1] Plaintiff-appellee The New York Racing Association Inc. (the Racing Association) challenges decisions of defendant-appellant NLRB declining to assert jurisdiction over the horse racing industry in general and the Racing Association in particular. The United States District Court for the Eastern District of New York, Jack B. Weinstein, Ch. J., held that the NLRB's decisions were not based on adequate factual investigations and findings, and were therefore unlawful. The district court made its own findings of fact and conclusions of law and remanded the case to the Board for further proceedings. For the reasons stated below, we hold that the district court was without jurisdiction to review the NLRB's decisions, and we reverse with instructions to dismiss the complaint.

### I. Facts

The Racing Association conducts thoroughbred horse racing and pari-mutuel wagering at three racetracks in New York. There is no dispute that the Racing Association's activities affect interstate commerce and generate hundreds of millions of dollars of gross income. The relations between the Racing Association and its some 1,700 employees are nevertheless regulated by defendant-appellant New York State Labor Relations Board (the State Board) rather than by the NLRB. This is because the NLRB has always declined to take jurisdiction over labor relations in the horse racing and dog racing industries. Indeed, since its creation the NLRB has never exercised all of its broad statutory jurisdiction, which extends to the limits of the commerce clause. See NLRB v. Children's Baptist Home, 576 F.2d 256, 258 n.1, 98 LRRM 3003 (9th Cir. 1978); NLRB v. Marinor Inns, Inc., 445 F.2d 538, 541, 77 LRRM 2866 (5th Cir. 1971). Over the years, however, the NLRB has from time to time reconsidered its policy of not regulating a particular industry, and in some instances, it has reversed its position and exercised jurisdiction. E.g., Cornell University, 183 NLRB 329, 74 LRRM 1269 (1970) (non-profit education). Cf. Volusia Jai Alai, Inc., 221 NLRB 1280, 91 LRRM 1065 (1975) (jai alai); El Dorado Inc., 151 NLRB 579, 58 LRRM 1455 (1965) (casino gambling).

In 1975, the NLRB considered such a reversal of its position regarding the horse racing and dog racing industries. Following the informal rule-making procedures of the Administrative Procedure Act, 5 U.S.C. §553, it announced in the Federal Register its intention to consider promulgating a rule asserting jurisdiction over these industries and inviting comment by interested parties. The NLRB received approximately 90 responses to this notice, the vast majority of which opposed the assertion of jurisdiction by the NLRB. After considering this record, the Board decided to continue to decline jurisdiction, and in April 1973, promulgated Rule 103.3, which provides as follows:

---

[1] For convenience, we hereafter refer to the National Labor Relations Board as the NLRB or the Board.

> The Board will not assert its jurisdiction in any proceeding under sections 8, 9, and 10 of the act involving the horseracing and dogracing industries.

38 Fed. Reg. 9507 (1973), codified at 29 C.F.R. § 103.3 (1982). The Board noted in an accompanying explanatory statement that the states exercised extensive control over the horse racing and dog racing industries, including some aspects of labor relations. It also found that employment in these industries was generally part-time, short-term, and sporadic, suggesting that the impact on commerce was minimal and that national regulation would be difficult and ineffective. Finally, the NLRB mentioned that few labor disputes had occurred in these industries in recent years. Its conclusion was that "the impact of labor disputes in these industries is insubstantial and does not warrant the Board's exercise of jurisdiction." 38 Fed. Reg. 9537 (1973).

In 1979, the Racing Association and the American Totalisator Company, Inc., filed petitions with the NLRB requesting the Board to repeal or amend Rule 103.3 and to assert jurisdiction over the horse racing and dog racing industries. The NLRB denied these petitions and announced its intention to "continue to decline to assert jurisdiction over labor disputes in these industries." 243 NLRB 314, 315, 101 LRRM 1403 (1979). The NLRB acknowledged that "the operations of the Petitioners herein as a part of the horseracing industry are related to interstate commerce," Id., but justified its decision to continue its long-standing policy by Congress' failure to overrule it in the Interstate Horseracing Act of 1978, and by the NLRB's inability to extend its jurisdiction without aggravating its already critical backlog of work. Chairman John H. Fanning and Member John C. Truesdale dissented, stating that the industries' substantial impact on commerce, recognized by Congress in the 1978 Act, as well as predictions in the press of unrest in the industries, warranted the exercise of jurisdiction.

In 1980, the Racing Association again asked the NLRB to take jurisdiction over it, this time by filing a petition under the National Labor Relations Act (the Act), 29 U.S.C. § 159(c)(1)(B), for an investigation and certification of bargaining representatives. Board Case No. 29-RM-635 (1980). In September 1980, the Regional Director denied the request on the grounds that "it would not effectuate the purposes of the Act to assert jurisdiction herein," relying on the Board's consistent policy on the horse racing industry, embodied in Rule 103.3.

The Association thereafter filed this suit for declaratory and injunctive relief against the 1979 decision of the NLRB as well as the 1980 decision of the Regional Director. The complaint demanded, among other things, a writ of mandamus compelling the NLRB to repeal or amend Rule 103.3 and to assert jurisdiction over the Racing Association, and a writ of prohibition forbidding the State Board to exercise any jurisdiction over the Association inconsistent with the NLRB's jurisdiction. The request that the NLRB take jurisdiction is an unusual position for an employer to espouse. It is doubtless relevant that the NLRB, unlike the State Board, hears complaints of unfair labor practices against unions brought by employers as well as the more customary charges brought against employers. Judge Weinstein denied defendants' motions to dismiss, or for summary judgment, for lack of subject matter jurisdiction and failure to state a claim on which relief can be granted. He conducted a bench trial at which the Association presented documentary and testimonial evidence; defendants did not present evidence, maintaining instead that the district court was confined to review of the administrative record.

In July 1982, the judge filed a memorandum and order remanding to the NLRB "the decisions ... declining jurisdiction" over the Racing Association for reconsideration in light of his findings of fact and law. He set out extensive findings of fact on the dollar amount of business generated by the Association, the nature and number of the Association's work force and the conditions of employment, the NLRB's exercise of jurisdiction over other industries such as jai alai, casino gambling, utilities and hospitals, and figures on attendance and wagering at various sporting events across the country, including racing. He found that 29 U.S.C. §§ 159(c)(1) and 164(c)(1) gave rise to a statutory right of employers to representation hearings unless the NLRB's decision not to assert jurisdiction was based on a proper factual investigation leading to "a reasoned opinion that no labor dispute involving that class or industry will sufficiently impact interstate commerce." The judge found that because they violated this right, the decisions complained of in this action were reviewable by the District Court under Leedom v. Kyne, 358 U.S. 184, 43 LRRM 2222 (1958). Judge Weinstein concluded:

> Neither in promulgating Rule 103.3 nor in denying plaintiff's petition for a representation hearing, did the Board conduct the requisite inquiry into the volume of commerce affected by potential labor disputes involving the racing industry generally or plaintiff in particular.

In deference to Board expertise, however, he declined

> to assume that the Board may not conclude that no labor dispute in the horseracing industry can substantially affect interstate commerce.

Instead, Judge Weinstein remanded the decisions to the Board for reconsideration in light of his findings of fact and law "and such other data as the Board may care to consider."

Defendants urge on appeal that the District Court did not have jurisdiction to review Rule 103.3, the 1979 decision of the NLRB, or the 1980 decision of its Regional Director, and that even if the district court did have jurisdiction, it erred in concluding that the NLRB abused its discretion in promulgating and refusing to amend or repeal the rule.

## II. The District Court's Jurisdiction to Review

At the outset, it is important to distinguish the two types of decision at issue in this suit. The NLRB's promulgation of Rule 103.3 and its subsequent refusal in 1979 to repeal or amend that rule are governed by the Administrative Procedure Act (APA), 5 U.S.C. §551 et seq. See 29 U.S.C. §156. The Racing Association's 1980 petition to the Board, on the other hand, was filed pursuant to section 9(c)(1) of the Act, 29 U.S.C. §159(c)(1), and the Regional Director's decision represents a determination under that section that no hearing was necessary and that there would be no further proceedings. Leedom v. Kyne, supra, relied on by the district court in finding jurisdiction to review, provides only for review of certain section 9 proceedings. To determine whether the court had jurisdiction to review the promulgation of Rule 103.3 and the 1979 decision, we must look first to the APA.

### A. Judicial Review Under the APA

#### 1. *Review of the merits of the Board's decision.*

Chapter 7 of the APA, 5 U.S.C. §701 et seq., provides a right of judicial review of agency action to "[a] person suffering legal wrong because of agency action ...." 5 U.S.C. §702. It does not, however, constitute an independent grant of subject matter jurisdiction. Califano v. Sanders, 430 U.S. 99, 107 (1977). Furthermore, chapter 7 does not apply "to the extent that (1) statutes preclude judicial review; or (2) agency action is committed to agency discretion by law." 5 U.S.C. §701(a). Our analysis leads us to conclude that the Board's 1973 and 1979 decisions to decline jurisdiction over the horse racing industry are matters within the second of these two exceptions to judicial review, and that therefore the district court had no jurisdiction to review the agency actions.

Section 701(a)(2) of the APA has generated disagreement in the courts, see, e.g., Reece v. United States, 455 F.2d 240 (9th Cir. 1972); Langevin v. Chenango Court, Inc., 447 F.2d 296, 302-03 & n.13 (2d Cir. 1971); Littell v. Morton, 445 F.2d 1207 (4th Cir. 1971); Scanwell Laboratories, Inc. v. Shaffer, 424 F.2d 859, 874-75 (D.C. Cir. 1970); Hospital Ass'n of New York State, Inc. v. Toia, 438 F.Supp. 866 (S.D.N.Y. 1977), and fierce debate in the law reviews, see, e.g., Berger, *Administrative Arbitrariness: A Synthesis*, 78 Yale L.J. 965 (1969); Saferstein, *Nonreviewability: A Functional Analysis of "Committed to Agency Discretion"*, 82 Harv. L. Rev. 367 (1968) (citing articles at 372-73 nn. 28-29); Berger, *Administrative Arbitrariness — A Reply to Professor Davis*, 114 U. Pa. L. Rev. 783 (1966); Davis, *Administrative Arbitrariness — A Postscript*, 114 U. Pa. L. Rev. 823 (1966).

The disagreement originates in the seeming inconsistency between the exception in section 701(a) of discretionary matters from the general rule of judicial review and the subsequent APA provision that "[t]he reviewing court shall ... hold unlawful and set aside agency action, findings, and conclusions found to be ... an abuse of discretion ...." 5 U.S.C. §706(2)(A). As Judge Friendly has written, "[t]he difficulty is that if the exception were read in its literal breadth, it would swallow a much larger portion of the general rule of reviewability than Congress could have intended, particularly in light of 5 U.S.C. §706(2)(A) ... ; yet to read the exception out completely would do violence to an equally plain Congressional purpose." Langevin v. Chenango Court, supra, 447 F.2d at 302-03.

This court has wrestled with this difficulty. In one case, it has seemed to rely on a distinction between ordinary discretion, reviewable for abuse, and discretion that is unreviewable because it " 'is not subject to the restraint of the obligation of reasoned decision ....' " Wong Wing Hang v. INS, 360 F.2d 715, 718 (2d Cir. 1966) (quoting Hart & Sacks, The Legal Process 172, 175-77 (Tenth ed. 1958)). Similarly, in Cappadora v. Celebrezze, 356 F.2d 1 (2d Cir. 1966), the court considered the critical question for judicial review to be whether the agency had absolute discretion. Id. at 5. In another case, we apparently adopted Professor Davis's "formulation 'that administrative action is usually reviewable unless either (a) congressional intent is discernible to make it unreviewable, or (b) the subject matter is for some reason inappropriate for judicial consideration.' " Langevin v. Chenango Court, supra, 447 F.2d at 303 (quoting Davis, Administrative Law Treatise, 1970 Supplement, §28.16 at 965). In a subsequent case we held that where a statute meets the test of Citizens to Preserve Overton Park, Inc. v. Volpe, 401 U.S. 402 (1971) — i.e., is "drawn in such broad terms that in a given case there is no law to apply," id. at 410 — judicial review is precluded by section 701(a)(2) even in the absence of clear and convincing evidence of legislative intent to make the action at issue unreviewable. Greater New York Hospital Ass'n v. Mathews, 536 F.2d 494 (2d Cir. 1976).

Out of these various formulations, however, one general principle does emerge with reasonable clarity. As the Supreme Court said in Barlow v. Collins, 397 U.S. 159, 166-67 (1970), judicial review is the rule, and preclusion under section 701(a)(1) and (2) the exception; but if clear and convincing evidence can be shown that Congress intended to make an agency action unreviewable, then the courts are without jurisdiction. Evidence of Congressional intent can, of course, be found in many places. The starting point is the language of the statute granting the agency power. If it makes no mention of discretion, and provides clear and detailed standards for agency action, e.g., Overton Park, supra, or if, conversely, it allows regulation "as the Secretary believes appropriate" and provides no standards at all, Greater New York Hospital Ass'n v. Mathews, supra, 536 F.2d at 497, the inquiry need go no further: It was reasonably clear on the face of the statutes that there was jurisdiction to review in the former case but not in the latter. But in the more usual case, where the language of the statute is not in itself sufficient evidence of whether Congress intended to grant unreviewable discretion, the court will look to other indications of congressional intent: the nature of the agency action involved, the amount of expertise required, the place of the particular action and of judicial review in the overall statutory scheme governing the agency and, of course, the legislative history of the statute. See Barlow v. Collins, supra, 397 U.S. at 166 (where controversy was over the meaning of a statutory term, judicial review was particularly appropriate); Natural Resources Defense Council, Inc. v. SEC, 606 F.2d 1031, 1044 (D.C. Cir. 1979) (factors to be considered include the impact of review on agency effectiveness and the appropriateness of issues raised for judicial review); Local 2855, AFGE (AFL-CIO) v. United States, 602 F.2d 574, 578 (3d Cir. 1979) (court must make "fair appraisal of the entire legislative scheme," considering breadth of discretion granted and extent of agency expertise involved); Greater New York Hospital Ass'n v. Mathews, supra, 536 F.2d at 498 (decision of HEW about timing of Medicare reimbursements not appropriate for judicial review); Langevin v. Chenango Court, supra, 447 F.2d at 303 (factors indicating Congress's intent to grant unreviewable discretion include the managerial nature of the agency's responsibilities, "the need for expedition to achieve the Congressional objective," and the flood of appeals that would result if this type of action were reviewable); Cappadora v. Celebrezze, supra, 356 F.2d at 6 (court considered "whether such a decision is totally committed to the judgment of the agency because of the practical requirements of the task to be performed, absence of available standards against which to measure the administrative action, or even the fact that no useful purpose could be served by judicial review"); Hospital Ass'n of New York State, Inc. v. Toia, supra, 438 F.Supp. at 868 (factors to consider in applying §701(a)(2) exception include whether there is no law to apply, what

Congressional intent was, and whether the subject matter is appropriate for judicial review). See also Saferstein, supra, especially the discussion of factors to consider in analysis of whether Congress intended to preclude review, 82 Harv. L. Rev. at 377-95.

[1] Against this background, we turn to section 14(c) of the Act, on which the NLRB relies as authority for its policy of not asserting jurisdiction over the horse racing industry. That section provides:

> (1) The Board, in its discretion, may, by rule of decision or by published rules adopted pursuant to subchapter II of chapter 5 of Title 5 [the Administrative Procedure Act], decline to assert jurisdiction over any labor dispute involving any class or category of employers, where, in the opinion of the Board, the effect of such labor dispute on commerce is not sufficiently substantial to warrant the exercise of its jurisdiction: *Provided*, That the Board shall not decline to assert jurisdiction over any labor dispute over which it would assert jurisdiction under the standards prevailing upon August 1, 1959.
>
> (2) Nothing in this subchapter shall be deemed to prevent or bar any agency or the courts of any State or Territory (including the commonwealth of Puerto Rico, Guam, and the Virgin Islands), from assuming and asserting jurisdiction over labor disputes over which the Board declines, pursuant to paragraph (1) of this subsection, to assert jurisdiction.

29 U.S.C. § 164(c). The language of subsection (1) immediately suggests that the decision to decline jurisdiction is "committed to agency discretion": not only does it speak of the Board's "discretion" in a general way, but it specifically grants the Board power to decline jurisdiction "where, *in the opinion of the Board*, the effect of such labor dispute on commerce *is not sufficiently substantial to warrant* the exercise of its jurisdiction" (emphasis supplied). The italicized words make clear that even if the effect on commerce of disputes in a particular case or industry is substantial, the Board has the power to make the judgment that the assertion of jurisdiction is not warranted. The impact of labor disputes — not of the industry — on commerce is made a primary consideration, but whether or not it is sufficient to warrant exercise of jurisdiction is a relative question, and the other factors that the Board will consider in weighing its decision are left unstated.

The extent of discretion that is inherent in these words is illuminated by the contrast with the proviso in section 14(c)(1). There, Congress imposed a precisely defined limit on the Board's discretion, stated in terms of established standards and using the clearly mandatory words "shall not." Thus, like the statute in Greater New York Hospital Ass'n v. Mathew, supra, which granted the Secretary of HEW complete and unreviewable discretion to determine when Medicare reimbursements would be made, so long as it was done at least once a month, section 14(c)(1) grants broad discretion, limited only by the requirement of the proviso.

The legislative history of section 14(c) confirms that it grants very broad discretion. We have already pointed out that the Board's jurisdiction reaches to the limits of the commerce clause, but the Board has never asserted all of that jurisdiction. As the Supreme Court noted, eight years before the enactment of section 14(c):

> Even when the effect of activities on interstate commerce is sufficient to enable the Board to take jurisdiction of a complaint, the Board sometimes properly declines to do so, stating that the policies of the Act would not be effectuated by its assertion of jurisdiction in that case. NLRB v. Denver Building & Construction Trades Council, 341 U.S. 675, 684, 28 LRRM 2108 (1951). The horse racing and dog racing industries were among those over which the Board had never exercised its jurisdiction.

The NLRB's failure to take jurisdiction over all cases and all industries within its potential range became problematical, however, in 1957, when the Supreme Court ruled for the first time that Congress had pre-empted the field of labor relations affecting interstate commerce, thereby precluding state regulation even when the Board had declined to exercise its jurisdiction. Guss v. Utah Labor Relations Board, 353 U.S. 1, 39 LRRM 2567 (1957). This compounded the already existing problem that states were not stepping in to regulate whenever the NLRB declined to act. The result was a "no-man's-land" in labor relations, in which some businesses and industries were left completely unregulated. By 1959, when Congress addressed itself to the situation by adding section 14(c) to the Act, the Supreme Court had already taken a step towards providing a solution. In Office Employees v. NLRB, 353 U.S. 313, 40 LRRM 2020 (1957) and Hotel Employees v. Leedom, 358 U.S. 99, 43 LRRM 2137 (1958), the Court ruled that the Board could not rely on policies declining jurisdiction over entire classes of employees.

Congress considered continuing and extending this approach to the problem by requiring the Board to assert jurisdiction over all labor disputes within its statutory jurisdiction, that is, over all labor disputes affecting interstate commerce. H.R. 8342, 86th Cong., 1st Sess., (1959), reprinted in 1 NLRB Legislative History of the Labor Management Reporting and Disclosure Act of 1959, at 687 (1959) [hereinafter cited as Leg. Hist.]. This approach was ultimately rejected because it was recognized that the Board could not cope with the volume of cases that would be thrust upon it. See, e.g., 105 Cong. Rec. 6537-38 (1959) (remarks of Sen. Goldwater), reprinted in 2 Leg. Hist. at 1143; 105 Cong. Rec. 14,346-47 (1959), (analysis introduced by Rep. Griffin), reprinted in 2 Leg. Hist. at 1522; 105 Cong. Rec. 15,546 (1959) (remarks of Rep. Dixon), reprinted in 2 Leg. Hist. at 1582. Congress also considered and rejected a version of the statute that would have required the Board to issue written standards for when it would take jurisdiction, S. 1386, 86th Cong., 1st Sess. (1959), reprinted in 1 Leg. Hist. at 332, and a version requiring the states to apply federal law in cases over which the Board could have asserted jurisdiction but chose not to. S. 1555, 86th Cong., 1st Sess. (1959), reprinted in 1 Leg. Hist. at 338. Instead, Congress passed a statute, which became § 14(c), that was criticized by its opponents as placing "no limitation whatsoever upon the Board's power to deny employees and employers the protection of the National Labor Relations Act." 105 Cong. Rec. 15,537, 15,542 (address of Sen. Rayburn, read into record by Rep. Thompson), reprinted in 2 Leg. Hist. at 1574, 1578. See also 105 Cong. Rec. 15,550-51 (1959) (analysis of Rep. Eliot, read into record by Rep. Bolling), reprinted in 2 Leg. Hist. at 1587; 105 Cong. Rec. 17,877 (1959) (remarks of Sen. Morse), reprinted in 2 Leg. Hist. at 1421.

In sum, the legislative history shows that in enacting section 14(c), Congress dealt with the "No-Man's land" problem by restoring the status quo ante Guss, supra: It expressly permitted the states to regulate labor relations when the NLRB had jurisdiction but declined to assert it, and preserved the Board's discretion to so decline. The language Congress used to describe that discretion, together with the comments of legislators who opposed this approach, strongly suggest that Congress intended also that the Board's exercise of its discretion would ordinarily be unreviewable.[1]

This conclusion is not surprising, given the nature of the decisions the NLRB makes under section 14(c)(1). Congress enacted no specific standards, nor did it require the Board to do so by regulation. The impact of labor disputes on commerce is, of course, the overall guide, but the dollar volume of business in interstate commerce is not the only yardstick that the Board can or should consider. Many other factors can be important. For instance, if the states regulate a given industry adequately, labor disputes in that industry might well be reduced to the point where their impact on commerce would be insignificant, whatever the volume of interstate commerce in the industry. In deciding whether to expend its limited resources to regulate one industry, the Board must inevitably consider the effect this will have on its efforts in other industries that are also involved in commerce. In formulating its policies on particular industries, the Board must look at the situation not just in one state, but nationwide. As the Supreme Court has noted, "where the duty to act turns on matters of doubtful or highly debatable inference from large or loose statutory terms" — in this case, the words "sufficiently substantial to warrant the exercise of [the Board's] jurisdiction" — "the very construction of the statute is a distinct and profound exercise of discretion." Panama Canal Co. v. Grace Line, Inc., 356 U.S. 309, 318 (1958). In short, when the Board decides whether the exercise of its jurisdiction is "warranted," it does far more than just measure the volume of commerce involved, taking jurisdiction over the largest industries and declining jurisdiction over the smallest.[2]

---

[1] The State Board also argues that subsequent legislative history shows that Congress has impliedly approved the NLRB's practice of not asserting jurisdiction over the horse racing industry. The State Board would have us discern this approval in Congress' failure to amend the Act to require assertion of jurisdiction over this industry, despite the fact that it did amend the Act to require coverage of health care institutions. Pub. L. No. 93-360, 88 Stat. 395 (1974). The State Board also considers it significant that in enacting the Interstate Horseracing Act of 1978, 15 U.S.C. § 3001 et seq., to regulate interstate wagering on horse racing and to prevent states from interfering with each other's regulations, Congress made an express finding that the states should have primary responsibility for regulating wagering within their borders. These arguments, while not without significance, are not necessary to our conclusion that Congress intended to preclude judicial review of the Board's horse racing policy.

[2] Since the enactment of section 14(c), courts have recognized that the NLRB has unreviewable discretion to assert jurisdiction even over cases where the impact on commerce is trivial by the Board's own guidelines. NLRB v. Anthony Co., 557 F.2d 692, 95 LRRM 3239 (9th Cir. 1977); NLRB v. Marinor Inns

[2] Under section 14(c)(1), the Board must make policy decisions about how best to effectuate the purposes of the national labor laws, decisions informed by its special knowledge and expertise. When it promulgated Rule 103.3 in 1973, the Board properly considered such factors as the extensive state regulation of the horse racing industry, the "unique and special relationship" between the states and the industry, the relative infrequency of labor disputes in the industry, the sporadic and short-term employment, marked by high turnover, and the difficulty thereby posed for effective Board regulation, and the Board's current workload. When the Racing Association petitioned in 1979 for amendment or repeal of the rule, it presented no data suggesting that conditions in the industry as a whole, or even in New York alone, had changed significantly in these respects since 1972-73. The Board therefore relied on its prior analysis in concluding that it should continue to decline to take jurisdiction over the horse racing industry. This is precisely the sort of decision-making that should in the normal course of things be left to the discretion of the agency to which Congress has entrusted it. This case presents no extraordinary circumstances to justify judicial review despite Congress' clear intention to preclude it — no allegations of racial discrimination are made, see Wong Wing Hang v. INS, supra, 360 F.2d at 719, and no colorable claim that the Board ignored a clear statutory mandate or exceeded its jurisdiction is raised, see Langevin v. Chenango Court, supra, 447 F.2d at 303. We are thus convinced that the District Court was without jurisdiction to review the substance of the Board's promulgation of Rule 103.3 and its 1979 decision not to repeal or amend it.

[3] 2. *Review of the Board's Procedures.* Of course, the district court would still have jurisdiction to review the procedures by which the Board reached its decisions. Indeed, the district judge's statement that "[a]t the time of the original promulgation of 103.3, the Board undertook no adequate factual investigation," and the judge's other suggestions that the Board was required to conduct hearings and make findings of fact imply that he did so. However, the record reveals that both the original promulgation of Rule 103.3 and the 1979 decision were procedurally sound. Section 14(c)(1) expressly provides that decisions to decline jurisdiction may be made "by rule of decision or by published rules adopted pursuant to subchapter II of chapter 5 of Title 5." The Board complied with all of the requirements for agency informal rulemaking set out in the APA, 5 U.S.C. §553. A proper notice of proposed rulemaking was published in the Federal Register on July 18, 1972, and interested parties were invited to submit written data and views. Responses were received and considered, and a rule was adopted and published along with an explanatory statement. 38 Fed. Reg. 9507, 9537 (1973). The APA does not mandate a hearing unless required by statute, 5 U.S.C. §553(c), and the Act imposes no such requirement. See 29 U.S.C. §156; California Citizens Band Ass'n v. United States, 375 F.2d 43, 53-54 (9th Cir. 1967). Cf. Hirsch v. McCulloch, 303 F.2d 208, 49 LRRM 2828 (D.C. Cir. 1962) (Board may not rely on mere advisory opinions in declining to assert jurisdiction over disputes in horse racing industry, but must follow statutory rulemaking procedure or conduct hearings leading to rule of decision).

The 1979 decision not to amend or repeal the rule was also procedurally sound. The APA provides simply that "[e]ach agency shall give an interested person the right to petition for the issuance, amendment, or repeal of a rule," 5 U.S.C. §553(e), and the National Board has done so in its rules. 29 C.F.R. §§102.124, 102.125. There is no statutory requirement that the Board reopen its rulemaking procedure or hold hearings in response to such a petition. The Board gave full consideration under its rules to the 1979 petitions of the Racing Association and others, and issued a reasoned opinion denying them.

### B. Judicial Review of Representation Proceedings

The third and final decision at issue in this case is the Regional Director's denial of the Racing Association's 1980 petition requesting the NLRB to take jurisdiction over it and conduct an investigation and certification of representatives under section 9 of the Act, 29 U.S.C. §159. The Regional Director based his denial on the Board policy, embodied in Rule 103.3, not to assert jurisdiction over any labor disputes in the horse racing industry. Section 9 sets forth the steps to be followed in processing representation petitions. An

---

Inc., 445 F.2d 538, 77 LRRM 2866 (5th Cir. 1971); NLRB v. WGOK, Inc., 384 F.2d 500, 66 LRRM 2338 (5th Cir. 1967).

employee, a union or an employer can petition the NLRB to order an election within a bargaining unit to determine whether the employees desire union representation. Courts have long recognized that Board actions under section 9 are not subject to judicial review unless an election has been held and the Board has taken the further step of bringing an unfair labor practice proceeding under section 10, 29 U.S.C. § 160, against a dissatisfied and uncooperative party to the section 9 proceedings. Boire v. Greyhound Corp., 376 U.S. 473, 476-77 (1964); Herald Co. v. Vincent, 392 F.2d 354, 356, 67 LRRM 2834 (2d Cir. 1968); Teamsters Local 690 v. NLRB, 375 F.2d 966, 969, 64 LRRM 2662 (9th Cir. 1967); Lawrence Typographical Union v. McCulloch, 349 F.2d 704, 706, 59 LRRM 2161 (D.C. Cir. 1965); National Maritime Union v. NLRB, 267 F.Supp. 117, 119, 65 LRRM 2065 (S.D.N.Y. 1967). This delay in review is the price Congress has chosen to pay to avoid interrupting progress towards swift administrative solutions to labor problems. Boire v. Greyhound, supra, 376 U.S. at 477-78; Herald Co. v. Vincent, supra, 392 F.2d at 356; McLeod v. Local 476, United Brotherhood of Industrial Workers, 288 F.2d 198, 201, 47 LRRM 2761 (2d Cir. 1961).

The courts have developed several exceptions to this general rule, however. Herald Co. v. Vincent, supra, 392 F.2d at 356-57; Teamsters Local 690 v. NLRB, supra, 375 F.2d at 969-72; National Maritime Union v. NLRB, supra, 267 F.Supp. at 119-20. Only one is relevant to this case: In Leedom v. Kyne, 358 U.S. 184, 43 LRRM 2222 (1958), the Supreme Court held that the district court had jurisdiction "to strike down an order of the Board made in excess of its delegated powers and contrary to a specific prohibition in the Act." Id. at 188. The Court later made clear that this exception is "a narrow one," not to be applied "whenever it can be said that an erroneous assessment of the particular facts before the Board has led it to a conclusion which does not comport with the law." Boire v. Greyhound Corp., supra, 376 U.S. at 481. See also Boire v. Miami Herald Publishing Co., 343 F.2d 17, 58 LRRM 2585 (5th Cir. 1965); Local 1545 v. Vincent, 286 F.2d 127, 132-33, 47 LRRM 2304 (2d Cir. 1960); National Maritime Union v. NLRB, supra, 267 F.Supp. at 120-24.

[4] The district court found that sections 9(c)(1) and 14(c)(1) of the Act grant employers like the Racing Association "a statutory right to representation hearings unless refusal of jurisdiction by the Board is specifically mandated by [section 14(c)(1)]." Despite the use of the word "shall" in section 9(c)(1), which is reproduced in the margin,[4] the section has been interpreted by the courts to afford the Board great latitude in determining whether or not to proceed with a hearing. National Maritime Union v. NLRB, supra, 267 F.Supp. at 122. Moreover, as the discussion in Part II.A.2., supra, of the discretionary nature of section 14(c)(1) makes clear, that section, except for the proviso, mandates nothing. It is as far as it can be from the "clear and mandatory" requirement at issue in Leedom v. Kyne, supra, 358 U.S. at 188. In that case, the Board conceded that it had failed to comply with the provision of section 9(b)(1) that "the Board shall not" determine that a unit including both professional and non-professional employees is appropriate for collective bargaining "unless a majority of such professional employees vote for inclusion in such unit." See 358 U.S. at 188-89. Here, by contrast, the Regional Director refused to order a representation hearing in reliance on a Board policy promulgated under a statute granting the Board almost unlimited discretion to take or decline jurisdiction. Leedom v. Kyne provides no basis for judicial review of that refusal or of the underlying policy. See National Maritime Union v. NLRB, supra, 267 F.Supp. at 121-24.

The District Court also relied on Office Employes v. NLRB, supra, Hotel Employees v. Leedom, supra and

---

[4] Whenever a petition shall have been filed, in accordance with such regulations as may be prescribed by the Board —

> (A) by an employee or group of employees or any individual or labor organization acting in their behalf alleging that a substantial number of employees (i) wish to be represented for collective bargaining and that their employer declines to recognize their representative as the representative defined in subsection (a) of this section, or (ii) assert that the individual or labor organization, which has been certified or is being currently recognized by their employer as the bargaining representative, is no longer a representative as defined in subsection (a) of this section; or
>
> (B) by an employer, alleging that one or more individuals or labor organizations have presented to him a claim to be recognized as the representative defined in subsection (a) of this section;
>
> the Board shall investigate such petition and if it has reasonable cause to believe that a question of representation affecting commerce exists shall provide for an appropriate hearing upon due notice. Such hearing may be conducted by an officer or employee of the regional office, who shall not make any recommendations with respect thereto. If the Board finds upon the record of such hearing that such a question of representation exists, it shall direct an election by secret ballot and shall certify the results thereof.

29 U.S.C. § 159(c)(1).

Hirsch v. McCulloch, supra, to establish a clear mandate violated by the Board. However, such reliance is misplaced. The last case merely held that in refusing to grant representation hearings, the Board may not rely on a policy of declining jurisdiction under section 14(c)(1) that is based on advisory opinions rather than on properly promulgated rules or decisions after a hearing. As discussed above, Rule 103.3 was promulgated according to proper rulemaking procedures, thus providing a sound basis for the Regional Director's decision. Office Employees and Hotel Employees would indeed support the district court's assertion of jurisdiction, if Congress had not overruled them by enacting section 14(c). See the discussion of legislative history, in Part II.A.2., supra. See also 105 Cong. Rec. 17,877 (1949) (remarks of Sen. Morse), reprinted in 2 Leg. Hist. at 1421.

The Racing Association argues that it is unjust for the district court to have no jurisdiction in this case, because then the NLRB's 1980 representation decision will never be reviewable. In the ordinary case, as already indicated, review is merely delayed until after an election has been held and an unfair labor practice proceeding initiated; here, however, this will obviously never occur, since the Board has refused to act at all. The short answer to this argument is that "not every governmental action is subject to review by judges." United States ex rel. Kaloudis v. Shaughnessy, 180 F.2d 489, 491 (2d Cir. 1950) (L. Hand, Ch. J.). The Racing Association is in the same position as any party who seeks an election but is unsuccessful in persuading the Regional Director to order one. See, e.g., Physicians National House Staff Ass'n v. Fanning, 642 F.2d 492, 499, 104 LRRM 2940 (D.C. Cir. 1980) (in banc), cert. denied, 450 U.S. 917, 106 LRRM 2513 (1981). Cf. United Electrical Contractors Ass'n v. Ordman, 366 F.2d 776, 63 LRRM 2223 (2d Cir. 1966) (per curiam).

### III. Conclusion

We have considered all of appellee's arguments supporting the district court's assumption of jurisdiction, and they are without merit. The district court had no jurisdiction to review the promulgation of Rule 103.3 in 1973, the NLRB's refusal in 1979 to repeal or amend the rule, or the Regional Director's denial in 1980 of the Racing Association's petition for a representation hearing. We therefore reverse and vacate the order of the district court and remand with instructions to dismiss the complaint.

---

## MONARCHI-VELIKOFF, INC. v. TRADES COUNCIL

U.S. District Court,
Northern District of Ohio

MONARCHI-VELIKOFF, INC. v. NORTH CENTRAL OHIO BUILDING AND CONSTRUCTION TRADES COUNCIL, et al., No. C82-2648-A, March 29, 1983

### LABOR MANAGEMENT RELATIONS ACT

Secondary boycott — 'Common situs' picketing — Damages ► 58.1614 ► 57.9423

General contractor and building erection contractor on construction project are not entitled to recover damages under Section 303 of LMRA from unions that picketed project with signs that employees of two subcontractors on project "receive substandard wages and benefits," where picketing was peaceful "information" or "area standards" picketing permissible under Act. Picket signs properly displayed facts concerning substandard wages and benefits to public in manner that did not show any organizational, recognitional, or secondary motive; picketing was conducted in compliance with standards and guidelines enunciated by NLRB in Moore Dry Dock Company case (27 LRRM 1108); contractors improperly maintained their attempted "reserve gate" system inasmuch as primary employers and their suppliers indiscriminately used all entrances to project jobsite, including entrance supposedly restricted to neutral employers; contractors have not shown any damages

---

We believe that this disposes of the Racing Association's argument made in passing in a footnote in its brief that the lack of review denies it due process.

The Racing Association relies heavily upon Florida Board of Business Regulation v. NLRB, 686 F.2d 1362, 111 LRRM 2478 (11th Cir. 1982), in which the Eleventh Circuit held that the district court had jurisdiction to rule on the request of a Florida state agency, after the NLRB had ordered representation elections, to issue a declaratory judgment that the NLRB "lacked statutory and constitutional authority to regulate labor disputes in the jai alai industry as a whole." Id. at 1369. We respectfully suggest that this case gives far too narrow a reading to the applicability of Leedom v. Kyne, supra, as construed by Boire v. Greyhound Corp., supra, 376 U.S. at 481, to district court review of section 9 proceedings.

Senator **Harkin**. That may well be.

The last issue I have is a case—sorry I do not have a case number on it. I will get you this in writing. It is an appeal to the Board that was heard by the 18th region in Minneapolis over 9 months ago. It involves a trucking company in Marshalltown, IA. And, again, they have been waiting over 9 months. I will get you the number. Like Senator Specter, I would like to know why it has taken so long. It seems to be a very simple matter.

Mr. **Stephens**. Do you have the name of the case?

### QUESTIONS SUBMITTED BY THE SUBCOMMITTEE

Senator **Harkin**. Midland Transportation Co., 165 employees, 8 sites. I will get the specific number. I will get that down to you today. I just met with them the other day in Iowa. They came to see me and said we have been waiting over 9 months for the thing to be resolved. The people are asking why we cannot get it resolved.

That is all we have, Mr. Stephens. We will have some other questions in writing I will submit to you.

Thank you very much.

[The following questions were not asked at the hearing, but were submitted to the Board for response subsequent to the hearing:]

## QUESTIONS SUBMITTED BY THE SUBCOMMITTEE

### ADMINISTRATIVE LAW JUDGE (ALJ) CASELOAD

Question. How many ALJ's are currently employed by the Board?

Answer. There are 82 Administrative Law Judges currently employed here at the Board.

45 - in our headquarters office
located in Rosslyn, VA
18 - San Francisco
8 - Atlanta
11 - New York

Question. How many ALJ's were loaned out on a reimbursable basis during Fiscal Year 1990?

Answer. There were 16 Administrative Law Judges loaned out on a reimbursable basis during Fiscal Year 1990 for a total of nine staff years. These Judges were detailed to nine different Federal agencies: (1) Federal Deposit Insurance Corporation; (2) Office of the Comptroller of the Currency; (3) Office of Immigration Review; (4) Department of Treasury, U.S. Customs; (5) Internal Revenue Service; (6) Small Business Administration; (7) National Transportation Safety Board; (8) Department of Treasury, Bureau of Alcohol, Tobacco and Firearms; and (9) Department of Education.

Question. By your calculations, Mr. Stephens, what is the appropriate number of ALJ's required to handle the current caseload?

Answer. Approximately 75, assuming case intake remains at current levels. The 75 number does not include the six judge years time of our ALJs on loan to other agencies.

Question. In your view, is the overstaffing of ALJ's and the dollar amount associated with the Office of Administrative Law Judges contributing to the Board's inability to address other priorities such as automation and clerical staff in the field?

Answer. Strictly speaking, we do not believe the ALJ Division is overstaffed. Rather, we have an imbalance between ALJ staff and Regional Office staff available to try cases. The apparent excess of available ALJ staff time is merely a symptom of the real problem and that is the shortage of trial attorneys in the Regional Offices. If the Regions could be fully staffed, the backlog of cases that currently exists would move through the casehandling pipeline more quickly. This, in turn, would surely result in a larger number of cases being appealed to the ALJ's and for some period would require this Agency to assign all of the ALJ complement to NLRB cases.

Since, for obvious reasons, ALJ staff cannot be loaned or reassigned to Regional Offices, the ALJ loan program is our only viable means of correcting the temporary staff imbalance. Reimbursements obtained from other agencies for the use of our ALJ's are used to supplement needed resources for other parts of the Agency, particularly the Regional Offices. We will expand the loan of ALJ's if at all possible, but our ability to loan judges is limited by the demands of other agencies. Other agencies are currently free to satisfy their requirements from other sources.

Unfortunately, while beneficial to the NLRB, the total dollar amount of reimbursements, which peaked last year at about $600,000, is far too small to make a significant difference in our ability to address other priorities such as automation and Regional Office staff. Any effort to address those priorities will require a long-term planned investment of several million dollars. Accordingly, our funding request for Fiscal Year 1992 addresses these priorities in the proper context.

## FUTURE CASELOAD FORECAST

Question. Certainly recent events such as the Greyhound and New York News strikes have contributed to an increased workload in many of your regional field offices. I also understand that a suit brought by the American Hospital Association concerning the definition of collective bargaining units is pending before the Supreme Court. This decision could greatly affect the union activities of workers in the health care industry when it is decided this spring. What is the potential impact of this decision on the Board's future caseload?

Answer. The Supreme Court's decision on the Board's health care rules was handed down on April 23, 1991. It upheld the Board's rules. Under the Final Rule approved by the Board, there will be eight appropriate bargaining units for employees employed by acute care hospitals. According to the Service Employees International Union, 3.5 million or 46 percent of the health care employees employed in the private sector work in an acute care institution. According to the New York Times, "fewer than 20 percent of the country's 3.6 million hospital workers belong to unions." (April 24, 1991, p1) Thus, it is anticipated that this rule will affect a substantial number of the health care employees that are under our jurisdiction. It is difficult, however, to accurately predict what impact this Final Rule will have on our case intake.

On March 12, 1991, the Wall Street Journal quoted one labor law attorney's prediction that a "firestorm" of hospital organizing cases will follow a decision approving the Final Rule. When the decision issued, Gerald McEntee, president of the American Federation of State, County and Municipal Employees was quoted in the New York Times (April 24, 1991) as saying that his union would be "stepping up [its] health care organizing to reach every hospital worker all across the country." Representatives of labor and management, and other commentators have also predicted a dramatic increase in union organizing drives if the Final Rule is sustained. Their general consensus is that the Final Rule will make it easier for unions to organize workers employed in acute care institutions.

With an increase in the filing of representation petitions, and possibly in the number of organized employers in the health care industry, it is anticipated that related unfair labor practice cases will also be filed.

Question. Does your 1992 request include additional resources to deal with this possible influx of cases?

Answer. The FY 1992 appropriation request does not include additional resources for an influx of cases resulting from the favorable Supreme Court decision on the proposed rules for bargaining units in the health care industry. It is not known at this moment what the specific impact may be; however, all indications are that an increase in representation cases is likely to occur.

It is also likely that additional unfair labor practice (ULP) charges will result from these organizing campaigns. Presently, the NLRB has no means by which to estimate the number of ULP charges which will result from organizing in the health care industry.

We have made no estimate of cases and any additional resources needed to process the expected increase in health care cases. We have concentrated our efforts in securing sufficient resources to handle our current caseload. It is important that we remain as current as possible and avoid any backlogs because the expected influx of cases will come all at once and we will be backlogged for a period of time. We have not been able to adequately define resource needs with respect to the possible influx of cases. Should the influx be heavy, we undoubtedly will have the need for additional staff.

## CASE PROCESSING

Question. What is your current case backlog?

Answer. The Board's pending caseload as of April 1, 1991, was 351 unfair labor practice cases and 105 representation cases for a total of 456 cases. This contrasts with the peak caseload of 1,647 cases on February 1, 1984. On April 1, 1988, the pending caseload was 767; on April 1, 1989, 690; and on April 1, 1990, 511. Thus, the caseload is at its lowest point in many years.

The GAO report confirmed that Board Member turnover and Board vacancies had a disruptive impact on the Board's decision-making process. The report confirmed that the Board has made progress over the last several years in reducing both its backlog and the median time for disposing of cases. The GAO report suggested -- and the Board agrees -- that there is still room for improvement for managing the flow of cases at the Board.

The extended median processing time characteristic of the mid-1980's was a result of the extraordinary backlog which resulted (as GAO confirmed) from Board Member turnover and vacancies. The Board, now at full strength, has been reducing not only its backlog but its median time for reaching decisions.

Attached for enclosure in the record is a copy of our comments on the GAO Draft Report (which was included in the Final Report).

Question. What strategy do you have for further reducing it?

Answer. In order to focus Board attention on cases well before their second anniversary, the Board has added a new component to its case management system: a "6-6-6" trigger for directly involving the Board Members in matters that may be emerging as problem cases. If the

Board's case management system has not moved a case from one stage to the next in six months' time, it is being flagged for action by all the Board Members.

Of course, no one believes that two years is an acceptable time for issuance of Board decisions, and every effort will be made to reduce the time, if possible even to six months. More frequent meetings of Board Members have been held and have been scheduled for six months in advance; special meetings have been held to focus on the oldest cases; there has been renewed emphasis by Board Members on case monitoring reports; and there has been renewed emphasis on special expedited procedures in routine cases. For example, a new procedure instituted to expedite some kinds of summary-judgment cases has reduced the time from receipt to issuance of Board decision from 134 days to 37 days.

I am attaching for enclosure in the record a copy of our report dated March 6, 1991, to the Honorable Tom Lantos, Chairman of the Subcommittee on Employment and Housing of the House Committee on Government Operations, which is the committee which requested the GAO Study.

## BOARD ACTION ON "LEAD" CASES

Question. What plan does the Board have to decide these "lead" cases in a more timely manner?

Answer. The Board's delay in deciding cases that are precedent-setting (i.e., lead cases) was a direct result of Board Member turnover and vacancies in the 1980's.

In September 1990, the Board had five fully confirmed Board Members for the first time in almost three years. This stability in Board membership has allowed the Board to concentrate on reducing its pending caseload in general. However, unlike the period 1981-1985 where the Board was embarked on a broad-ranging re-examination of fundamental labor-law policies with a large number of potential lead cases resulting. The Board today is not engaged in such a review and therefore has fewer "lead cases." Therefore, the delay effect to which GAO alluded in its references to "lead cases" does not exist today. The Board has set for itself the goal of having no case more than two years old as of September 1991. There were 300 such cases in July 1987. As of today that number has been reduced to 12. Twenty-seven more would become two years old between now and September 30, 1991, but the Board anticipates that all will have been issued by that date.

## RENT INCREASE

Question. What is the reason for this significant increase in 1992?

Answer. About half of the $3 million increase will be needed to fund the increased cost of space for the NLRB Washington Headquarters. The lease on our current space has expired. Because the existing building is old, does not have sufficient sprinklers, and uses asbestos insulation, GSA has determined that NLRB Headquarters should be relocated to a more safe facility. The cost per square foot of such space within the District of Columbia will be significantly higher than at the current location.

The balance of the increase will fund rate increases that will result from either relocation or renegotiation of leases for seven field offices whose leases have expired as well as the cost of annual rate adjustments at other existing locations.

AUTOMATION PLAN

Question. Can you describe the benefit of this automation system in terms of reducing the case backlog and streamlining your staffing requirements?

Answer. The new automation system would greatly enhance the productivity and timeliness of the NLRB caseload. At the present time our field office staff has fewer than one PC for each three employees. Of all the Agency's PCs, 70 percent are first generation. About 40 percent of all the Agency's PCs are over five years old. Only Headquarters has a sophisticated PC network and even here most of the fileservers are operating at capacity. We were not surprised that the consultant found that 70 percent of field staff had to wait two hours for access to a PC. In fact, in many offices employees have simply purchased their own PCs and brought them into the office. Much of our software is one release or more behind.

The work of the NLRB is to enforce the law. This is a paper intensive and research intensive task. It is impossible to sustain high productivity when both document preparation and research automation are inadequate. The few PCs that the Agency has been able to acquire over the last several years have allowed a large reduction in clerical support staffing, but has had only a negligible impact on professional staff productivity. There simply is not enough equipment and virtually no resources have been spent on training. The Agency believes that increased expenditures on ADP equipment will further enhance our word processing capability, dramatically improve our legal research capability, and improve general Agency efficiency through better case management software, electronic mail and various administrative applications which are mostly now on hold.

Question. Did you request funding for this automation plan in your budget submission to OMB?

Answer. Yes, the NLRB has tried to secure funding for several years now. The consultant's report, completed in August 1989, was an effort to bolster the Agency's description of its ADP requirement.

The budget submission to OMB for the past several years has requested funds for automation. However, our first priority has usually been to have adequate staff to handle the caseload rather than to purchase automation equipment.

Question. What is the consultant's current estimate for the first year phase-in of the three-year systems upgrade?

Answer. Approximately $7,414,000. The second and third years were estimated at approximately $5,643,000 and $5,620,000, respectively. These estimates date from August 1989. Certain equipment prices have declined, but increases in technical support costs offset this and the estimates are still satisfactory.

## Office of Inspector General

### STATEMENT OF WILLIAM J. DOYLE III, INSPECTOR GENERAL

### BUDGET REQUEST

Senator **Harkin**. And now back to Railroad Retirement Board. We will hear from the Inspector General, Mr. William Doyle. Obviously independent oversight of the railroad, maintains and protect the integrity of the trust funds. The 1992 request for this office is $7.7 million, an increase of $1.8 million over last year.

Mr. Doyle, welcome to the subcommittee. Again, your statement will be made a part of the record in its entirety, and if you could summarize it, it would be appreciated.

Mr. **Doyle**. Mr. Chairman, good morning. My name is William J. Doyle III, and I am the inspector general of the Railroad Retirement Board, and I will be brief.

I would like to submit my testimony for the record, and briefly highlight our priorities for fiscal year 1992.

Senator **Harkin**. Without objection.

Mr. **Doyle**. First I want to thank you, Mr. Chairman, and your committee, for the continued support of the Office of Inspector General. In addition, I want to publicly thank, on the occasion of our fifth year in existence, my Office of Inspector General staff for obtaining approximately $800 million in cost savings through their professional and aggressive efforts, and nearly 270 criminal convictions. Within the past 15 months, we have recovered $410 million, with 133 criminal convictions and 85 indictments.

It is a record of achievement that I, as the Inspector General, am proud to report to this committee. These are results that demonstrate a cost-effective utilization of the resources your committee has provided to us. And now, in fiscal year 1992, we fully support the President's budget request of $7,700,000, and 119 full-time-equivalent [FTE] positions for the Office of Inspector General.

One of our main audit priorities will be to work in tandem with the Chairman and Board members to improve those program areas where the Office of Management and Budget, OMB, and the Railroad Retirement Board Office of Inspector General have identified management weaknesses. We shall monitor, assist, and inform the Chairman, the OMB, and this committee on the Railroad Retirement Board's progress as it begins to implement the necessary measures to improve our agency's operations.

We will continue our payroll tax compliance spot check audits of railroad employers, even though a number of rail employers are now questioning the Office of Inspector General's audit authority to conduct these types of audit. This is the type of audit that we have been undertaking during the past year.

We were required to suspend an audit of a major railroad employer. Although we issued an inspector general subpoena for the company's records, the company refused to comply. This matter is now pending in a U.S. district court.

While this issue remains unresolved, the Railroad Board's trust funds stand to lose millions of dollars of employment taxes because of additional challenges from other railroad employers. In addition, the outcome of this matter will have serious ramifications throughout the audit community of Federal inspectors general, especially if the court makes a negative finding on the inspector general's audit authority and the issuing of inspector general subpoenas.

Other audit efforts will include evaluating the Railroad Retirement Board's $65 million debt collection program, developing and implementing financial statement audits, continuing our twofold audit and investigative approach, addressing reviews of the Medicare part B program, and finally, continuing our evaluation of the agency's internal control procedures.

Our other main operational component, the Office of Investigations, has experienced a tremendous increase in its workload. After 5 years of continued growth in the investigative area, we have been unable to provide a credible deterrent against fraud. Each agent is presently responsible for nearly 100 investigative matters, and our current caseload consists of over 2,400 cases. Half of our open investigative cases have resulted from Railroad Retirement Board referrals. The fact that we see no leveling off of investigative matters, which now conservatively have a fraud value of well over $17 million, is of very serious concern to us.

We foresee an upward trend of investigative fraud matters for at least another 2 to 3 years. While we need to increase staff positions in both audit and investigations, we strongly believe that, because of the depth of fraud in the Railroad Retirement Board programs, we need to focus ours and the Board's efforts on providing a credible deterrent against fraud. We must protect the trust funds for current and future beneficiaries.

With additional staff resources our plans remain to increase our independent program oversight, to promote the economy, efficiency, and effectiveness of the Railroad Retirement Board programs, and thus help ensure the accurate and timely payments to beneficiaries on whose behalf we at the Board work.

## PREPARED STATEMENT

I would like to again express my appreciation to you, Mr. Chairman, and your staff, for the support that we have received over the last few years. I would also like to thank the new Chairman of the Railroad Retirement Board, Glen L. Bower, and the Board for their continued support. He has taken a personal interest in our work and is highly supportive of our efforts.

At this time, I would be happy to answer any questions you or any member of the committee might have.

[The statement follows:]

## Statement of William J. Doyle III

Mr. Chairman and members of the subcommittee, my name is William J. Doyle III, Inspector General of the Railroad Retirement Board (RRB). I am here today to speak on behalf of my budget request for fiscal year 1992.

I would like to express my appreciation to you, Mr. Chairman, and the members of the subcommittee for your continued support of the Office of Inspector General (OIG).

I fully support the President's fiscal year 1992 budget request of $7,700,000 and 119 full-time equivalent (FTE) positions for the Office of Inspector General.

During the last 15 months, we have continued to aggressively pursue improvements in RRB operations, and to prevent and detect fraud and abuse in agency programs. The OIG audit and investigative staffs have identified actual and potential monetary benefits of $410.3 million, issued 43 audit reports, and achieved 133 criminal convictions along with 85 indictments and informations. Since 1986, when this office was established, we have attained financial accomplishments of over $800 million and are credited with 268 criminal convictions.

One of the main priorities of the OIG in fiscal year 1992 will be to work in tandem with the Chairman and Board Members to improve those program areas where the Office of Management and Budget (OMB) has identified material weaknesses. The OIG will monitor and inform the Chairman and the OMB on the RRB's progress as it begins to implement the necessary measures to improve operations. The OIG and the Chairman will continue their efforts to create a deterrent against incidences of fraud, waste and abuse in RRB programs; and to protect the integrity of the RRB trust funds for railroad beneficiaries and their families. Since I last testified, our investigative caseload has increased to 2,436, and the dollar amount of fraud has increased to $17.5 million. In spite of our aggressive fraud program, use of computer matches, the Inspector General Hotline, Board referrals and new Board computer initiatives, fraud cases are increasing and the RRB is losing millions of dollars. The OIG has serious concerns that we have not provided a credible fraud deterrent against those who would take advantage of Board programs. We see little change in the near future for our fraud caseload. Approval of our 1992 budget request will allow this office to address our audit and investigative mandate.

Our fiscal year 1992 budget will leave the OIG an oversight of $201 million per staff member, one of the highest in the IG community. The average investigator caseload remains at approximately 100 cases per agent.

The OIG organization is presently divided into an Office of Audit and an Office of Investigations with plans to establish a third component, an Office of Analysis and Inspections.

I would now like to outline the major audit and investigative priorities for 1992.

The Office of Audit priority areas will include: Updating the audit universe. We initially developed this document to ensure adequate planning for our audit coverage of programs. Although this universe presently contains approximately 170 possible audit topics, we expect to complete only 20 to 25 percent in any one fiscal year with our current staffing levels. It should be noted that many of these audits are repeated every two to three years.

Assisting the Board and monitoring the RRB's progress in implementing the contract between the RRB and the OMB. As a result of OMB's management review, the RRB has entered into an agreement to implement measurable corrective actions for identified operational weaknesses. The OMB has asked the OIG to monitor the application of resources and measure progress toward the specified improvements in performance agreed to by the Board and the OMB.

Continuing payroll tax compliance audits of railroad employers. These audits will ensure that proper employment tax contributions are being made to the Internal Revenue Service (IRS) and the RRB trust funds. It is critical for the RRB that each railroad employer pay its proper share of contributions. Underpayments, misapplications by the U.S. Treasury, coverage determinations—these, and similar issues, affect revenues and levels of benefits available to the railroad annuitants, employer and employee tax rates, and, ultimately, the integrity of the RRB trust funds themselves.

We recently determined that 14 railroad employers understated supplemental tax liability by about $23 million. This underreporting of tax liability has been of major concern to this office since its inception in 1986.

Certain rail employers have now questioned the OIG's authority to conduct railroad employment tax audits. In fact, in 1990, while reviewing a Class I railroad employer, OIG auditors were required to suspend an audit at the company's request. We sought advice from the Department of Justice, which concluded the audit was justified as part of the OIG's oversight of the Board's operations. Although we requested that the audit be allowed to resume, company officials declined. We issued an Inspector General subpoena for relevant records, but the company refused to comply and filed suit to enjoin enforcement of said subpoena. The Department of Justice has filed a petition to enforce the subpoena and a motion to dismiss the company's suit. Both lawsuits have been consolidated and are now pending in a U.S. District Court. While this issue remains unresolved, the RRB trust funds stand to lose millions of dollars in contributions and interest income.

In addition, the outcome of this matter will have serious ramifications throughout the audit community of Federal Inspectors General, especially if the court makes a negative finding on the IG audit authority and the issuing of IG subpoenas. We will, upon resolution of this important issue, be required to allocate additional personnel to this area of significant monetary impact.

As a result of various, comprehensive OIG audit efforts in the area of railroad employer payroll tax compliance, as well as the resistance to these audits on the part of some railroad employers, the Office of Audit has formed a working group with the IRS, in order to: Share audit plans of both agencies; ensure railroad employer compliance with applicable IRS and RRB regulations and statutes; share appropriate information based on audit experiences of both agencies; and, develop a mechanism by which the IRS can utilize OIG audit findings to initiate IRS inquiries concerning CT-1 tax returns.

Monitoring agency oversight of the accounting methods of various agencies, including the U.S. Treasury and Internal Revenue Service, that collect and process RRB taxes. We will continue to monitor the RRB's procedures involving various Federal entities that assess and collect taxes, and invest the monies collected on behalf of the RRB. Strong internal controls must be in place to safeguard the monies upon which railroad beneficiaries depend. It was through this office's efforts that over $116 million which were misapplied to other government trust funds were returned to the RRB.

Evaluating the RRB's debt collection programs. We plan to conduct a thorough management review of the Program Accounts Receivable System (PARS). The Chief Financial Officer recently estimated accounts receivable at $65 million. We will evaluate the adequacy of internal controls and procedures in the major program bureaus to ensure the establishment of accounts receivable and the recovery of funds.

Implementing financial statement audits. We will develop a program to conduct audits of the RRB's trust funds to ensure compliance with the newly established Chief Financial Officer legislation, as directed by the OMB. This will be an ongoing review, and, therefore, we anticipate additional staffing will be required in the future.

Reviewing the Medicare Part B Program. We continue to address this important area by using a two-fold audit and investigative approach. This office has recommended that the Medicare contract be competitively bid with various national carriers. At the request of the Chairman, we presently are reviewing General Accounting Office studies and Department of Health and Human Services (DHHS) reports that have made sweeping recommendations regarding our Medicare Part B carrier and programs. Medicare investigations remain a top priority. We are working closely with DHHS-OIG to predicate cases and thereafter work jointly to maximize their expertise and our resources. Many new and interesting investigative matters have resulted. We continue to strive to eliminate systemic weaknesses by making improvement recommendations to the Board, both through audit and investigative efforts.

Evaluating the agency's internal controls. We will review the agency's internal control procedures to ensure compliance with the requirements set forth in the Federal Managers' Financial Integrity Act and OMB Circulars A-123 and A-127.

Reviewing current investment policies. We will conduct an in-depth review of the existing RRB methods for investment of the Board's Trust Funds. We feel it is imperative that the Trust Funds are invested prudently, and in a timely fashion.

Additional resources will enable the Office of Audit to begin to provide greater coverage of these priority areas, to assist the Board and to provide audit coverage where the trust funds are being directly affected. This office must provide coverage in those audit areas where dollar losses in the millions are being experienced.

Our other major operational component is the Office of Investigations. This office is divided into two general operational areas: (1) retirement, unemployment and sickness insurance; and (2) disability and health care. The investigative staff has steadily increased its number of investigations, referrals to U.S. Attorneys, indictments, informations and convictions. There were 101 convictions in fiscal year 1990. In comparison, there was one in fiscal year 1986, and ten in fiscal year 1987. Our current caseload has a conservatively estimated fraud value of approximately $17.5 million. We project that cases under investigation will increase in number as the Board establishes additional state wage matching programs to expand detection of fraud in the benefit programs. In addition, the Chairman of the RRB has made the elimination of fraud one of his top priorities. He is personally working with senior state officials in an effort to implement wage match agreements that will result in additional fraud matters being uncovered. We have focused on unemployment insurance, as well as sickness insurance, deceased payee and check fraud, and other forms of white collar crime. We feel investigation of disability and Medicare fraud within the RRB's programs will yield large dollar amounts recovered from fraudulent activities by individuals and health care providers.

The Office of Investigations (OI) will participate in cooperative efforts with U.S. Attorneys nationwide and other Federal agencies, such as the U.S. Secret Service, the Department of Health and Human Services, and other Inspectors General. We have also established a field office in Houston, Texas and plan to open another office in the northeast corridor of the United States. Both locations have a large population of railroad beneficiaries.

The number of fraud referrals from RRB program officials has increased dramatically. Over one-half of our open investigations have resulted from Board referrals. In addition, the OI and the Board have made special efforts to publicize the OIG Hotline which resulted in the receipt of over 900 calls in fiscal year 1990.

The following are a sample of the diversity of our cases. In the health care area, investigations usually involve doctors, other health care practitioners and medical equipment suppliers. We currently have 125 open investigations regarding disability and Medicare matters, with total estimated losses of over $5 million. A few examples of ongoing investigations are:

As a result of a Hotline complaint, we are investigating a medical equipment supplier that directs local pharmacies to furnish their retail bills to a centralized location, where higher prices are charged. The company then submits the charges to Medicare. We believe railroad Medicare has been billed over $500,000 for supplies in excess of what was received by beneficiaries and for charges in excess of the retail cost.

We received information from a district office concerning a disability annuitant who was working under his wife's social security number. During our investigation, we found yet another RRB annuitant who was also working for the same company under his wife's social security number. Both annuitants, their wives, the current and former owners of the company, and a company officer are subjects in this investigation. We anticipate the indictment of seven subjects as a result of this investigation.

We are conducting an investigation with the DHHS-OIG concerning a company that provides ostomy and neurology supplies. The supplier has allegedly billed certain nursing homes for items not received. We are in the final stages of completing a computer analysis comparing billing records with supply receipts. The loss is about $100,000.

We received a referral from the DHHS-OIG involving a podiatrist who is providing routine foot care, but whom we believe is upgrading procedure codes to reflect more complex medical care, thus allowing for higher billings to Medicare. This individual is part of a group of podiatrists submitting false billings. The doctor has been interviewed and is expected to cooperate with Federal prosecutors.

Our unemployment fraud cases have increased to 1,300 with potential losses exceeding $3 million. Many of these cases were initiated from employer wage-RRB benefit payment computer matches between the RRB and various State governments. The RRB currently has computer matching programs in place with 13 States, and an additional 23 state programs are in various stages of development. We have also requested that the RRB incorporate disability benefit records in wage matching programs which will significantly increase our investigative workload in the disability area.

The following are examples of current unemployment benefit fraud cases: A former railroad police officer and state probation officer collected railroad unemployment insurance benefits while he worked at two separate car dealerships. Another police officer, who also worked as a security guard for a railroad employer, received railroad unemployment insurance benefits while so employed. The U.S. Attorney's Office is currently pursuing prosecution in these matters.

Currently, in the retirement area, we have over 400 cases with an estimated loss of over $7 million. These cases generally involve the theft and fraudulent cashing of U.S. Treasury checks or the illegal removal of direct deposit funds by an individual other than the annuitant, mail fraud, false statements, and such other white collar crimes.

The following is an example of a retirement case under investigation: One woman cashed $26,000 in U.S. Treasury checks which were issued by the Treasury to her grandmother as retirement benefits. She received these checks after her grandmother's death, and negotiated the checks from 1984 through 1990. The matter has been referred to the U.S. Attorney's Office for prosecutive consideration.

We have increased our investigative program coverage as well as our statistical accomplishments for indictments and convictions, but we have yet to substantially decrease the amount of fraud in the benefit programs. Overall, with additional computer match programs being conducted by the Board, together with new OIG initiatives in the Medicare and disability areas, our criminal fraud caseload is expected to increase in numbers, in complexity, and in the dollar value of fraud. Only with additional resources can we strive to reduce the number of persons who capitalize on program weaknesses and loopholes that permit fraud to occur.

I would now like to describe our plans for a third unit with the Office of Inspector General—the Office of Analysis and Inspections. Within recent months, the OMB completed a management review of the RRB and issued recommendations to correct program weaknesses. As a result, we believe there is a stronger need now for an organizational component to conduct special studies and management reviews in a timely manner. Such reviews and studies could include, for example, the degree of progress made by the Board in completing corrective actions that address the program weaknesses identified by OMB. This unit will also conduct additional analyses or evaluations at the request of the IG or the Chairman of the Board. Through such reviews, the OIG will be able to present prompt recommendations to solutions in areas that do not lend themselves to a lengthy audit or investigation. This office will also serve as a source of information for future audits or criminal investigations. The Office of Analysis and Inspections will enable us to provide even greater coverage of RRB operations, and will give the OIG another means to detect fraud and strengthen RRB programs from waste and abuse.

We plan that the Office of Analysis and Inspections will initially start with four to six specialists who possess strong communication skills and have experience in different disciplines.

I would like to again express my appreciation to members of this committee for their support of the OIG. Mr. Chairman, the support of you and your committee, and the Office of Management and Budget, have allowed the Office of Inspector General, Railroad Retirement Board, to return over $800 million to the Trust Funds. Finally, I would like to thank the new RRB Chairman, Mr. Glen L. Bower, and the Board for their support. Our plans remain to increase our independent program oversight to further promote the economy, efficiency and effectiveness of RRB programs. With additional personnel and funding, we can continue to protect the trust funds for all railroad beneficiaries and begin to provide a credible deterrent against program fraud.

## U.S. RAILROAD RETIREMENT BOARD—OFFICE OF INSPECTOR GENERAL

| Account | 1991 budget | 1992 request | 1992 compared to 1991 budget |
|---|---|---|---|
| Limitation of review activities | $5,855,000 | $7,700,000 | +$1,845,000 |
| FTE | 99 | 119 | +20 |

## Biography of William J. Doyle III

On December 18, 1985, William J. Doyle III was confirmed by the U.S. Senate and was sworn in as the first statutory Inspector General of the Railroad Retirement Board at the White House on January 14, 1986.

Headquartered in Chicago, the Board administers the $7 billion-a-year benefit programs provided under the Federal Railroad Retirement and Unemployment Insurance Acts covering the nation's 1.2 million active and retired railroad workers and their families. The Board also assists in the administration of other federal laws covering railroad workers.

Mr. Doyle is one of 23 statutory Inspectors General who are responsible for promoting economy, efficiency and effectiveness and for detecting fraud, waste and abuse in Federal programs. Mr. Doyle served as Inspector General for ACTION, the national federal volunteer agency from 1981 to 1986.

From 1976 to 1981, he was the Executive Assistant to the Administrator of the Law Enforcement Assistance Administration at the U.S. Department of Justice, where he twice received Presidential letters of appreciation and received two outstanding awards from the Attorney General.

In 1975 and 1976, Mr. Doyle was Acting Director for the Office of Mortgagee Compliance at the Department of Housing and Urban Development in Washington, DC, where he received the Department's Special Achievement Award in 1975. During that time, he also served as Executive Management Advisor to the Executive Director of the Commission on Federal Paperwork.

From 1972 to 1974, Mr. Doyle served as Deputy Director of the Office of Compliance and Enforcement, Price Commission, Executive Office of the President, in Washington, DC, where he twice received the Commission's highest Award for Management Excellence.

From 1968 to 1972, he held various positions in the private sector including Executive Vice President of ESDI, a management consulting firm specializing in the design of management systems.

He is a member of the President's Council on Integrity and Efficiency, the Association of Federal Investigators, and the Vice Chairman of the Midwestern Intergovernmental Audit Forum.

Born May 18, 1941, Mr. Doyle is a native of Daytona Beach, Florida. He earned a Master's Degree in International Law and Relations in 1968 from Catholic University, Washington, DC, and was awarded a Dean's scholarship for completion of his Ph.D. studies. He graduated from Canisius High School, Buffalo, New York while a resident of the town of Tonawanda.

## MEDICARE CONTRACT

Senator HARKIN. Thank you very much, Mr. Doyle, and congratulations on doing a good job.

I had asked earlier, as you know as you were sitting here, about the Medicare contract. For railroad retirees it has never been competitively bid.

It is my understanding that as a result of reviews conducted by your office, that you will be making a recommendation on this.

Mr. DOYLE. Yes.

Senator HARKIN. Could you share with us what that recommendation will be?

Mr. DOYLE. Yes; what we will be recommending to the Board is in a draft state. We conducted a review of the report of the Health and Human Services Inspector General on the Board's Medicare Part B Program.

What we are recommending to the Board is that this contract, at a minimum, be competitively bid. There are two other options. The one would be to follow the advice in the inspector general report of HHS, which says, transfer the whole program, that is, put it back into HCFA, or to continue with the way we have been doing it, doing nothing. We do not think the final recommendation is really a recommendation of prudence. We would again recommend, at a minimum, that the contract be competitively bid.

Senator HARKIN. I wonder if the priorities of the Office of Inspector General in 1992 will be the oversight of the management improvement agreement between the Board and OMB. In the Board's 1992 budget request, staffing under its regular administrative accounts, goes down by eight. Yet under the special management improvement account, staffing increases by 77, for a net gain of 69.

What guarantees can you give this committee that if funding is provided for the special management improvement fund, that it will not be used as sort of a fund or a slush fund to supplement regular ongoing programs for business as usual?

Mr. DOYLE. I do not think I can give a guarantee; there may be instances where the fund is used for purposes other than that which are stated. But I can guarantee that my office will report to the chairman and to this committee any deviations from what is laid out in the work plan that the Board will prepare, and that includes such things as determining if they are using the extra staffing for the purposes intended, that the $13 million is used in management improvement areas as stated in the agreement, and that we will monitor the progress of the Railroad Retirement Board's elimination of basically the internal weaknesses that were identified in the OMB report.

And I might add some of these weaknesses we also had pointed out earlier in studies that we had prepared. So I feel very confident that we will be able to provide a strong oversight, but a great deal depends on everyone's good faith effort also. I feel confident that the present Chairman and the Board members will really make an effort to bring about the needed changes that I think we all agree are needed.

## QUESTIONS SUBMITTED BY THE SUBCOMMITTEE

Senator HARKIN. Thank you very much, Mr. Doyle. We appreciate your being here.

There will be some additional questions which will be submitted for your response in the record.

[The following questions were not asked at the hearing, but were submitted to the Office of Inspector General for response subsequent to the hearing:]

## QUESTIONS SUBMITTED BY THE SUBCOMMITTEE

### Competitive Bid/Medicare Account

**The Part B Medicare contract for railroad retirees has never been competitively bid. It is my understanding that, as a result of reviews conducted by your office, you have recommended that the Board reconsider its position and solicit bids from other vendors. Why did you make that recommendation?**

I believe that it is in the best interest of the Railroad Retirement Board to evaluate awarding this contract on a competitive bid basis.

Some of the reasons for my position follow:

- This contract is currently for more than $18 million annually, and has not been competitively bid since the program was implemented over 25 years ago.
- Administrative costs, which until recently were consistently above the average cost for other Part B carriers, could be kept competitive.
- Competition may be an incentive for a carrier to reduce costs and improve performance, resulting in possible reductions of overall costs and upgrading annuitant service.

### RRB Medicare Contract/HCFA

**Inasmuch as the Board is reimbursed for administering the Part B Medicare program by the Health Care Financing Administration, would you recommend that the program be turned over to HCFA to administer? Would HCFA support that recommendation?**

The DHHS recommendation made concerning the RRB administration of its Medicare Part B program is being reviewed by this office and the RRB. This office in the past has recommended the bid process.

Presently, the OIG is recommending that the RRB consider, as a first step, the use of a competitive solicitation and award process to select the company which will process the railroad Part B Medicare claims.

I am not aware of HCFA's position regarding their takeover of the RRB Part B Medicare program.

### Tax Liabilities by Railroads

**Mr. Doyle, we have discussed before your audit of the payment of taxes by the rail industry. I note from the justification that your reviews so far have resulted in the identification of about $23 million in payroll taxes owed to the Trust Funds. Where do you currently stand on these audits and what more needs to be done?**

Unfortunately, our audits of the nation's railroads have been limited in the last several months because of a lawsuit filed against the OIG to enjoin OIG auditors from conducting an audit of employment taxes and contributions of a Class I railroad employer. The employer alleges in its complaint that the OIG lacks legal authority to conduct such an audit.

The Department of Justice, which represents the OIG in this lawsuit, has stated in writing that the OIG has the legal authority to conduct this audit as a proper oversight function of the Board's operations. The Department of Justice filed a petition to summarily enforce the Inspector General subpoena issued to this railroad after the railroad company questioned OIG authority, and refused to cooperate with our auditors. The two actions have been consolidated and are currently pending in the District Court in Ft. Worth, Texas.

If the railroad company should prevail, thereby preventing the OIG from conducting these types of audits, millions of dollars in employment taxes and contributions will be lost. This unacceptable result could only be remedied by a legislation enactment to specifically convey the explicit statutory authority to conduct employment tax audits of railroad payroll records to the Inspector General.

As an illustration of the magnitude of the problem, my office has conducted 33 railroad employer audits since 1988. Of these 33 railroads, 31 owed the government additional payroll taxes. The aggregate amount of these taxes owed by the 31 railroad employers exceeds $25 million.

The committee might also be interested in the fact that, since the beginning of this litigation, 11 railroad companies have refused our requests to conduct audits.

## Oversight of RRB/OMB Agreement

**One of the priorities of the OIG in FY 1992 will be the oversight of the management improvement agreement between the Board and OMB. In the Board's FY 92 budget request, staffing under its regular administrative accounts goes down by 8. Yet, under the special management improvement account, staffing increases by 77 for a net gain of 69. What guarantees can you give to this Committee that, if funding is provided for the special management improvement fund, it will not be used as a slush fund to supplement regular ongoing programs for business as usual?**

The RRB/OMB agreement states that the OIG will monitor the agency's progress in correcting the management weaknesses, and determine if the additional resources provided are used for the purposes designated.

As a part of the oversight provided by the OIG, reviews will be conducted to determine if the agency is meeting the agreed upon performance targets, and if the additional resources are be used for the stated purpose. Any deviations from the agreed upon corrective actions, performance targets and milestone dates, or resource usage will promptly be brought to the attention of the RRB and the OMB.

The amount of OIG resources dedicated to monitoring the RRB/OMB agreement will vary according to the action plan established by the agency. Because many of the management weaknesses to be corrected by the contract remain priorities of this office, sufficient resources will be committed to ensure the OIG discharges the responsibilities provided in the agreement.

## Convictions

**I note from your budget justification that you have had 268 convictions since 1986, with an actual potential monetary recovery of $800 million. How much of that has been recovered in actual dollars, and in what areas have you obtained convictions?**

From January 1986 through December 1990, the Office of Investigations recovered or received through restitution orders a total of $5.3 million. Nearly all these dollars have been actually received. In the small number of cases where accounts have become delinquent, OI has worked with the accounts receivable unit at the Railroad Retirement Board to ensure full payment has been received. This includes followup investigative action and coordination with U.S. Attorney and U.S. Probation Offices. Convictions have been obtained in all program areas and geographic regions.

During the same period, the Office of Audit identified actual and potential monetary benefits of approximately $795 million. Of this amount, $661.2 million, together with $12 million in interest, have been realized for the RRB trust funds.

## Oversight/Investment of Trust Funds

**What oversight is your office undertaking in the areas of investment of trust funds?**

Recent reviews in this area identified over $116 million in railroad retirement taxes which had been misapplied to other agencies. Since those reviews, we have initiated audits in the areas of unemployment taxes and repayment taxes to determine if similar situations exist within those tax accounts.

The RRB has retained an expert investment consultant to assist the agency's investment committee. A previously scheduled review of the agency's investment practices was postponed until the consultant's project was completed. This review is currently scheduled to begin in fiscal year 1992.

## Financial Statement Audits

**How will the implementation of the Chief Financial Officers Act of 1990 affect the ability of the OIG to carry out its ongoing oversight and investigative responsibilities?**

The OIG can perform the initial oversight of the CFO legislation implementation without a significant impact on its ongoing program review responsibilities. The agency established a Chief Financial Officer position over three years ago. Therefore, the CFO's responsibilities and authority for financial management are well established.

The OIG is currently studying two proposals for implementing the financial statement requirements of the CFO legislation. The first proposal is to retain a public accounting firm to perform the review. This proposal will enable the OIG to meet the requirements of the Act without affecting the ongoing oversight responsibilities. This option will require an increase in funds available for contracting support services.

The second proposal is for OIG staff to perform the review. This option will require the OIG to request additional staff to meet the CFO Act requirements, and still effectively carry out ongoing oversight responsibilities, and properly address the priority areas previously discussed.

## Staffing Increases

**The FY 1992 budget request for the OIG is $10,700,000 and 119 FTEs, an increase of 20 FTEs. What was your original budget request to OMB and how would additional staffing be used?**

The Administration's FY 1992 budget request is $7,700,000 and 119 FTEs. Our request was $10,700,000 and 165 FTEs.

We need to provide a credible deterrent against fraud to ensure tax compliance by the nation's railroad employers, and to continue to strengthen our independent oversight of RRB operations. To meet these requirements and to fulfill our mandate, we would distribute additional resources among our three operating entities: audit, investigations, and inspections and analysis.

We have returned $69 for every budget dollar since 1986. To continue this level of achievement, we have requested these additional resources.

**Please outline your investigative priorities in FY 1992.**

Medicare, Disability, Deceased Payee, Unemployment/Sickness Insurance frauds, and Employee Integrity matters.

**What is your expected caseload in FY 1992?**

We project in excess of 3,000 cases.

**How will the increased activity at the Board to provide additional computer matches impact on the OIG workload?**

We anticipate a substantial increase in caseload.

**What is your current investigative caseload and how do you expect that caseload to change in FY 1992?**

The current investigative caseload is 2,903, and we expect the number to increase to over 3,000 cases.

**What will be your audit activities in FY 1992?**

We will concentrate our audit efforts in the following priority areas:

--Assisting the Board and monitoring agency progress and use of resources in implementing the contract between the RRB and OMB;

--Non-compliance of payroll taxes by major rail employers;

--Oversight of the RRB trust funds and investment practices;

--Assessment of the RRB's $65 million debt collection program;

--Implementation of financial statement audits;

--Continuing review of the Medicare Part B Program; and

--Updating the audit universe to ensure adequate planning for our audit coverage of RRB programs.

**What are some of the high risk areas that have been identified by RRB management, and what will be the OIG involvement?**

Prior Agency reports on internal controls identified a number of material weaknesses in RRB activities, many of which were confirmed by a recent OMB management review. The OMB review listed six specific high risk areas that included: claims processing, debt collection, fraud control, information systems, tax accounting, and trust fund integrity. The Office of Inspector General has agreed to monitor the RRB's five year implementation plan to correct operational deficiencies.

# FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

## STATEMENT OF RICHARD V. BACKLEY, ACTING CHAIRMAN

ACCOMPANIED BY:

PAUL MERLIN, CHIEF JUDGE

RICHARD BAKER, EXECUTIVE DIRECTOR

JOSEPH FERRARA, GENERAL COUNSEL

### BUDGET REQUEST

Senator **Harkin**. The Federal Mine Safety and Health Commission was established as an independent agency in 1977, charged with the responsibility of reviewing the enforcement activities of the Secretary of Labor, and protecting miners against unlawful discrimination. Budget request is $4.7 million, an increase of $530,000 over 1991.

We welcome Richard Backley, Acting Chairman, to the subcommittee. If you would introduce your companions, and then we will put your statement in the record. If you would summarize it, we would appreciate it.

### INTRODUCTION OF ASSOCIATES

Mr. **Backley**. Thank you, Senator Harkin. It is good to see you again.

To my immediate right is our chief judge, Paul Merlin, on my immediate left is Richard Baker, our Executive Director, and to my far left is our General Counsel, Joseph Ferrara. I will attempt to make this brief, because after all the statement is only 2½ pages. I think there is a certain brevity in that.

As you pointed out, Senator, we are asking for an additional $530,000 which basically is to fund an anticipated increase in our workload which results from certain activities of the Labor Department's Mine Safety and Health Administration.

Because it has been previously discussed this morning, I would like to point out, Senator, that the average case before the Commission is approximately 6 months old, while the average case decided by our administrative law judges is approximately 180 days old. However, in the last 5 months we have noted an increase in cases coming into the Commission.

We attribute this to two factors: one is a pattern violation and the other is the excessive history issue, both of which are currently being prosecuted vigorously by the Secretary of Labor.

We needed an additional administrative law judge this year, but the executive and administrative law judge pay raise depleted our resources as we have 17 people who were covered by the increases.

### PREPARED STATEMENT

We need an additional administrative law judge in fiscal year 1992. Additionally, the General Counsel needs another member on his staff, so that our case inventory will not continue to grow. When the Commission began in 1978 we had a horrendous backlog, and I think we have successfully brought it down.

I would be glad to respond to any questions you have for me.

[The statement follows:]

### STATEMENT OF RICHARD V. BACKLEY

Mr. Chairman and members of the committee, it is a pleasure to appear before the committee again in support of the 1992 fiscal year budget request of the Federal Mine Safety and Health Review Commission. As a word of introduction, I have been a Commissioner since the inception of the Commission in September 1978 and have served as Chairman or Acting Chairman on three separate occasions during my tenure.

The Federal Mine Safety and Health Review Commission exists to objectively and neutrally adjudicate through administrative trial and appellate review legal disputes arising under the Federal Mine Safety and Health Amendments Act of 1977 among or between mine operators, the Department of Labor, and miners.

This five-member Commission provides administrative appellate review. Its functions include reviewing all administrative law judge decisions, ruling on petitions for discretionary review, directing review sua sponte for cases that may be contrary to law or policy or that may present novel questions of policy, and issuing decisions that affirm, modify or vacate administrative law judge decisions directed for review. If not considered for formal review, an administrative law judge decision becomes a final non-precedential order of the Commission. Appeals from final decisions of the Commission are to the U.S. Courts of Appeal.

In the activity of Administrative Law Judge Determinations, we have received 1,122 new cases during the first 5 months of this fiscal year. This rate, if continued, will exceed the 2,175 new cases estimated for fiscal year 1991. Case dispositions for 1991 are expected to total 1,970. Should this rate continue we would begin fiscal year 1992 with an increased inventory of 1,997. In fiscal year 1992 we expect to receive 2,349 new cases and dispose of 2,165 cases, leaving a case inventory at the end of fiscal year 1992 of 2,181. (This is 513 cases above the estimate provided in the President's budget.)

During fiscal year 1990, 2,029 new cases were received and 1,930 cases were decided. Of these dispositions, 943 were disposed of prior to hearing by settlement approved by the administrative law judges, 691 were disposed of on motion or by stipulated record, and 296 were fully tried prior to decision. At the close of the year the pending caseload before the judges totaled 1,279.

At the Commission Review Level we expect to receive 92 new cases for formal review and dispose of 79 cases leaving an ending inventory of 49 cases for fiscal year 1992. In addition, the Commission will continue to review administrative law judge decisions. In fiscal year 1991, we expect to receive 75 new cases and dispose of 67.

In fiscal year 1990 the Commission received 80 new cases and issued 59 substantive decisions and denied 19 petitions on review for a total case disposition of 78. The average age of the 59 substantive decisions in fiscal year 1990 was 7.4 months.

The Commission attempts to hold as many meetings as possible in open session and of the 26 meetings held in fiscal year 1990, 12 were open, 3 were closed and 11 were partially closed and partially open.

Over the past several years we have seen a steady increase in our workload of new cases. While the disposition of cases has increased, our inventory of unresolved cases has continued to grow. As a result we are requesting funding for four additional FTE including an administrative law judge.

The fiscal year 1992 request of $4,719,000 is an increase of $530,000 which is needed mainly to support this added staff and to cover general pay increases for the Commission's employees.

Thank you for the opportunity to present this statement, Mr. Chairman. I would be pleased to respond to questions from you and members of the Committee.

## COMMISSION VACANCY

Senator HARKIN. You have done a good job in reducing the backlog, and I appreciate that. Do you have a vacancy now on the Commission?

Mr. BACKLEY. Yes; we do. Our former chairman, Ford B. Ford's nomination is currently pending in the Labor Committee. Senator, I have been Chairman three times since 1978. It is getting to be old hat, and I would just as soon be doing something else. I would appreciate anything you can do to urge Mr. Ford's nomination along.

Senator HARKIN. That is pending now?

Mr. BACKLEY. Yes; it is.

Senator HARKIN. That is before our committee.

Mr. BACKLEY. I believe, Senator, you are on that committee.

Senator HARKIN. Who is nominated?

Mr. BACKLEY. Ford B. Ford. He has previously appeared before you. At this time we have four sitting Commissioners. The Commission is active and we do have a quorum.

Senator HARKIN. How long has that been pending before us?

Mr. BACKLEY. It was submitted last fall.

Senator HARKIN. I appreciate you bringing that to my attention. I am going to look at that.

Mr. BACKLEY. Thank you. I appreciate that, Senator.

Senator HARKIN. That is really all I have. You are doing a good job.

Mr. BACKLEY. Congratulations on your reelection.

## QUESTIONS SUBMITTED BY THE SUBCOMMITTEE

Senator HARKIN. Thank you very much.

There will be some additional questions which will be submitted for your response in the record.

[The following questions were not asked at the hearing, but were submitted to the Commission for response subsequent to the hearing:]

# QUESTIONS SUBMITTED BY THE SUBCOMMITTEE

## VACANCY ON COMMISSION

QUESTION: The Commission operated with all five Commissioners in place during FY 1990; however, the Commission now has a vacancy. When do you expect that the Administration will be sending a nomination to the Senate to fill this vacancy?

ANSWER: The Administration submitted the reappointment nomination of Ford B. Ford for Commissioner and redesignated Chairman on September 11, 1990. The nomination was resubmitted on January 4, 1991.

QUESTION: If the Commission operates at less than its full complement of five members, would the Commission still require additional staffing?

ANSWER: Yes, it would. The additional funds requested are for increased staffing in the General Counsel's office and in the Administrative Law Judge Activity. Workload in these activities is not affected by the Commission having less than a full complement of five members.

## ADMINISTRATIVE LAW JUDGE DETERMINATIONS

QUESTION: Administrative Law Judges at the Commission hear and decide contested cases as initiated by the Secretary of Labor, mine operators and miners. Your budget indicates that you are anticipating an increase in cases. Why are you anticipating those increases?

ANSWER: At the time the budget workload estimates were being developed, the Secretary of Labor had published or was in the process of publishing several regulations which we believed would result in an increased workload. Included in these regulations were the pattern of violations and increased civil penalties (which was part of the Budget Reconciliation Agreement). In addition, the Secretary had changed her special assessment procedures. While it could not be determined to what extent these actions will be contested, we believe that the Commission's workload will increase.

QUESTION: In FY 1991, the Commission requested funding for an additional ALJ. Was that position filled?

ANSWER: No, the position has not been filled. As we testified last year, the Commission's budget for 1991 included funding for General Schedule Pay increases only. The establishment of special pay rates for Administrative Law Judges and Executive Pay increases has prevented the Commission from filling several needed vacancies including an additional judge.

## CASES CONTESTED

QUESTION: Who is contesting the majority of the cases reaching the Commission for review -- the Secretary of Labor, mine operators, or miners?

ANSWER: Currently, 82% of the cases filed with the Commission's ALJs are filed by the Secretary of Labor. In fiscal year 1990, 80% of the cases were filed by the Secretary. Although the cases are filed by the Secretary of Labor, they are the result of operators contesting the Secretary's enforcement actions and resultant civil penalties.

At the Commission level, of the 29 cases received as of February 28, 1991, five were filed by the Secretary of Labor, twenty by mine operators and four by miners. In fiscal year 1990 the Commission received 80 cases. Thirteen of these were filed by the Secretary of Labor, 55 by mine operators, 10 by miners and one each by the United Mine Workers and the American Mining Congress.

QUESTION: Are these cases based on substantive issues or are those cases in effect being filed to protest the amount of fines being levied?

ANSWER: All cases filed for Commission Review, and the vast majority of cases filed at the ALJ trial level, involve substantive issues including mine site conditions at the time the citation was issued. Currently, we are receiving a substantial number of cases appealing the procedure under which the Secretary of Labor is to apply excessive history in computing the civil penalties.

## AGE OF CASES/CARRYOVER

QUESTION: Although your projections indicate that more cases will be decided at the Administrative Law Judge level, the number of cases carried over will also increase. This same trend of carryovers is projected at the Commission level. What is the average age of cases being carried over?

ANSWER: At the Commission Review level the average age of 31 cases in inventory is 6.8 months. The average age of the 18 cases decided as of February 28, 1991 is 7.1 months.

At the ALJ (trial) level the Commission had 1,625 cases pending as of February 28, 1991. The Commission's ADP system does not provide an age inventory, however, we believe that it would be about 4.5 months. The average of the cases decided by the ALJs this year is 5.9 months.

## COMMISSION REVIEW

QUESTION: An additional $201,000 has been requested to support Commission review activities. To what do you attribute the increased workload?

ANSWER: Of the $201,000 increase requested in FY 1992, $123,000 is for increased pay costs. The amount of $60,000 is for annualization of the FY 1991 increases and $63,000 for the proposed 4.2% General Schedule increase in FY 1992. The balance of the increase, $78,000, is being requested for two additional FTE, including an additional attorney for the General Counsel's office, scheduled to be hired at the beginning of the fiscal year.

## SURPLUS ADMINISTRATIVE LAW JUDGES

QUESTION: The National Labor Relations Board has, for several years, loaned Administrative Law Judges, on a reimbursable basis, to other agencies to help address backlogs. Will the Commission explore the possibility of utilizing these surplus ALJs from the NLRB and report back to this Subcommittee on the results of your discussions with the Board?

ANSWER: Yes, we will. The Commission supports the effective utilization of government personnel and is concerned with achieving economies in governmental services. The hiring or detailing of administrative law judges must be coordinated with and approved by the Office of Personnel Management. The Commission will keep the Subcommittee informed of discussions, results and available opportunities to utilize surplus NLRB judges.

# OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

## STATEMENT OF EDWIN G. FOULKE JR., CHAIRMAN

**ACCOMPANIED BY:**

**PAUL TENNEY, ADMINISTRATIVE LAW JUDGE**
**JAN COLLINS, EXECUTIVE DIRECTOR**
**LARRY HOSS, DIRECTOR OF ADMINISTRATIVE SERVICES**
**EARL OHMAN, JR., GENERAL COUNSEL**
**DAVID JONES, CHIEF LEGAL COUNSEL AND SPECIAL ADVISOR**
**RAY DARLING, EXECUTIVE SECRETARY, CLERK OF COURT**

### BUDGET REQUEST

Senator HARKIN. Occupational Safety and Health Review Commission, established by the Occupational Safety and Health Act of 1970, has the responsibility of adjudicating cases, when disagreements arise over OSHA safety and health inspections performed by the Occupational Safety and Health Administration. The budget request for next year is $6.7 million, an increase of $464,000 over last year.

We have here Mr. Edwin Foulke Jr., Chairman of Occupational Safety and Health Review Commission. We will put your statement in the record. If you would identify the people with you and give us a summary, I would appreciate it.

Mr. FOULKE. Thank you, Mr. Chairman. To my immediate right is our Chief Administrative Law Judge, Paul Tenney. To my immediate left is the Director of Administrative Services, Mr. Larry Hoss, and to his left is our General Counsel, Mr. Earl Ohman. Also present, to my left is the agency's Executive Director, Jan Collins. Behind me also and to my right is David Jones, who is my Chief Legal Counsel and special advisor, and Ray Darling, who is the Executive Secretary, Clerk of Court of the agency, sir.

It is a privilege to appear here before you and the committee to present for your consideration our fiscal year 1992 appropriation request for the Review Commission. The Commission has requested funding levels for fiscal year 1992 of $6,711,000, which, as you mentioned is an increase of $464,000 over the appropriated 1991 fiscal year funding levels.

### PREPARED STATEMENT

We have also requested funding to support a staffing level of 82 FTE's, which is 4 FTE's above the estimated level for fiscal year 1991.

I will be happy to answer any questions that you have for our agency.

[The statement follows:]

## STATEMENT OF EDWIN G. FOULKE JR.

Mr. Chairman, it is a privilege to appear before you and the Committee to present for your consideration the fiscal year 1992 appropriation request for the Occupational Safety and Health Review Commission. The Commission's requested funding level for fiscal year 1992 is $6,711,000, which is an increase of $464,000 above the fiscal year 1991 funding level. The requested funding will support a staffing level of 82 Full Time Equivalent (FTE) positions, which is 4 FTE above the estimated level for fiscal year 1991.

The Occupational Safety and Health Review Commission (Commission) is an independent adjudicatory agency established under the Occupational Safety and Health Act of 1970, 29 U.S.C. 651 et seq. (Act). The Commission is primarily composed of three Commission members (commissioners) who are appointed by the President with the advice and consent of the U.S. Senate, and a corps of administrative law judges (ALJ's). Its purpose is to effect the just and expeditious adjudication of disputes between the Occupational Safety and Health Administration (OSHA), an agency of the Department of Labor, and employers charged with violations of safety and health standards enforced by OSHA.

The Commission has a two-tier system for adjudicating contested OSHA cases. At the first level, proceedings are conducted before an ALJ of the Commission. When a case at this level cannot be concluded by settlement or upon motion, it is decided by an ALJ after a hearing conducted in accordance with the Commission's Rules of Procedure and the Administrative Procedure Act. At the second level of proceedings, the commissioners review cases to assure consistent application of precedent and to formulate case law in novel circumstances and as to new OSHA standards. Any one commissioner, acting alone, can direct review of any ALJ decision. Unless a commissioner directs a case for review within 30 days, the ALJ's decision becomes the final decision of the Commission. The commissioners normally decide each case based upon a review of the record, which includes briefs filed by the parties, and, where appropriate, upon oral argument engaged in by the parties before the commissioners. With the exception of directing cases for review, the Act requires a quorum of two commissioners and the affirmative vote of two commissioners for the Commission to take official action.

During fiscal year 1990, 3,365 new contested cases were filed with the Commission, which was a slight decrease from the fiscal year 1989 level. However, the Commission presently estimates that approximately 3,630 new cases will be filed in fiscal year 1991, and that 3,830 new cases will be filed in fiscal year 1992. It must be noted that these estimates do not take into consideration the 700 percent increase in the maximum civil penalty amounts provided by the newly enacted Omnibus Budget Reconciliation Act of 1990.

It is likely that the above increase in civil penalty amounts will increase the volume of contested cases filed with the Commission. When an employer is cited by OSHA, the employer has the option of paying the fine and correcting the violation or of filing a Notice of Contest with the Commission. It is reasonable to assume that employers faced with significantly higher fines will be more likely to contest the citation and pursue the matter through hearing before the Commission. The Department of Labor has indicated that the contest rate may increase from the present 7 to 9 percent to perhaps 30 percent as a result of the new penalty amounts. This will result in a concomitant increase in the Commission's caseload. However, the amount of this increase cannot be determined with certainty until later in fiscal year 1991.

OSHA commenced implementation of the increased civil penalty amounts in March 1991. Should the Commission's caseload be significantly increased as a result, the funding and FTE levels in its ALJ program may well require increases for staff, travel for hearings, and hearing transcript costs in order to maintain a reasonable case disposition time. Otherwise, the volume of contested cases awaiting disposition by Commission ALJ's may increase in significant numbers.

At the second level of Commission proceedings, a sharp increase in directions for review and dispositions has occurred since the establishment of a quorum of commissioners in late fiscal year 1990. This level of case activity is expected to continue through the remainder of fiscal year 1991 and fiscal year 1992.

During the past eight months, the Commission has made substantial progress in the disposition of cases which have been at the review level for some time. Many of these older cases were pending as a result of the absence of a quorum of commissioners, and some because the issues were complex and difficult to decide. In addition, I attribute part of the Commission's success in disposing of cases to a change in a procedural rule which now encourages parties in proceedings before the commissioners to request oral argument. Oral arguments have enabled the commissioners to question the parties as to their prospective on the issues presented and to reach accord on the disposition thereof.

In summary, Mr. Chairman, I am pleased with the progress that the Commission has made during the past year that I have been Chairman. I firmly believe that the Commission will be faced with an increase, and possibly a sizable increase, in contested cases during fiscal years 1991 and 1992. Should the increase prove to be sizable, the continued utilization of efficient case management procedures and careful use of resources may not be adequate to handle such an increase without an increase in staff personnel.

This concludes my opening statement. Again, I appreciate the opportunity to appear before you today. My staff and I will be glad to answer any questions that you and the Committee may have at this time.

## THREE MEMBER BOARD

Senator HARKIN. You have a full complement on the Commission now?

Mr. FOULKE. Yes, Mr. Chairman. We have, I was confirmed by the Senate the last day of February of last year, and came on board March 5. The other two commissioners, Commissioner Montoya and Commissioner Weisman, came on board in May 1990. We are a three-member board.

Senator HARKIN. So you have been at full strength. I really do not have any questions, unless you have anything specific that you want me to focus on.

Mr. FOULKE. No; I think our budget submission pretty well states forth our position, and the statement we have submitted pretty much covers everything.

## QUESTIONS SUBMITTED BY THE SUBCOMMITTEE

Senator HARKIN. Thank you very much. Thank you all for being here. There will be some additional questions from various Senators which we will submit to you for your response.

[The following questions were not asked at the hearing, but were submitted to the Commission for response subsequent to the hearing:]

## QUESTIONS SUBMITTED BY THE SUBCOMMITTEE

### Commission Workload/Quorum

I am pleased to see that today, the Commission does have a quorum. Last year, as I recall, the Commission was without one single Commissioner and had been for some time. The Commission is projecting that it will review 2.8% or 110 of the Administrative Law Judge decisions in 1991. Inasmuch as the Commission will be operating at full strength for the first time in several years and inasmuch as the amount of penalties is expected to increase substantially, do you feel that you have under-estimated the workload for FY 1991?

Not at this time. It is anticipated that an increase in litigation as a result of higher proposed penalties will occur. However, it is almost impossible to estimate with any accuracy what the size of the increase in the Commission caseload will be. It may very well be late fourth quarter FY 1991 or early FY 1992 before the anticipated caseload increase materializes before the Review Commission.

### Processing Time

It is my understanding that all fines and directive actions by OSHA are held in abeyance when an OSHA decision is contested until such time as a decision is issued by the Commission. What steps is the Commission taking to move quickly on violations at transitory-type industries. For example, the construction industry has one of the highest injury and fatality rates in the country. I could foresee instances where an OSHA fine and citation would be contested and by the time the Commission issued a decision, the job at the construction site was done and safety measures were never put into place. How are you addressing these circumstances?

At the outset, it should be noted that the Occupational Safety and Health Act provides in section 10(b) that corrective action is delayed until entry of a final Commission order only "in the case of any review proceedings under this section initiated by the employer in good faith and not solely for delay or avoidance of penalties." This provision has been invoked only rarely. Therefore, it is the highest priority of the Review Commission to adjudicate cases as expeditiously as possible. To accomplish this, Review Commission judges make every effort to speed the resolution of cases. Approximately 93% of the Commission's cases are settled by the parties through consensual resolution prior to a hearing. In addition, the Commission provides in its Rules of Procedure for a separate set of simplified procedures to permit less formal and faster processing of certain classes of cases. In cases not eligible for simplified proceedings, Commission Rules of Procedure automatically expedite proceedings in cases initiated by employee notices of contest and by petitions for modification of abatement. All other cases may be expedited by motion of a party or the Commission itself.

### Increase in the Number of Appeals

OSHA penalties for violation of standards increased from $11.2 million in FY 1986 to $45.7 million for FY 1989. This obviously affected the Commission's caseload. Are the contested decisions being heard by the Commission based on the amount of the fines or on the substantive underlying issues?

Based upon those cases that have been contested before the Commission, the overwhelming majority of those are contested on the merits of the case rather than the dollar amount of the proposed fines.

## Administrative Law Judges

I note that the Commission has requested 3 additional FTE's for the Office of Administrative Law Judges. The National Labor Relations Board has a surplus of Administrative Law Judges. Has the Commission looked at borrowing Administrative Law Judges on a reimbursable basis to help reduce its caseload?

During the last few months, several unexpected (ALJ) vacancies occurred in the Commission's ALJ program due to retirements and transfers. Currently there is a staffing level of 39 FTEs allocated to the ALJ program. The time required to recruit and employ selectees for those positions will result in an average FTE employment of 34 for FY 91. By the end of FY 92, the Commission expects to have a fully encumbered ALJ program staff of 39 FTEs.

At the present time, the Commission's administrative law judge staff is fully capable of handling the contested caseload before it and no reason exists to borrow ALJs from outside the Commission.

## Caseload Increases

Your budget justification states that you expect an increase in cases as a result of increases in OSHA penalty limits. How soon do you expect to see these increases in case loads?

It cannot be estimated with any degree of certainty as to exactly when the caseload may begin to increase as a result of the increased OSHA penalty proposals. However, we do know that OSHA did not begin enforcement of the higher penalty authority until March of this year. The Commission may begin to receive some contested cases with increased penalty amounts during the last quarter of FY 91 and certainly early in FY 92.

## U.S. NAVAL HOME

### STATEMENT OF CAPT. FRANCIS J. FERRY, GOVERNOR

### BUDGET REQUEST

Senator **Harkin**. Now we have one more, Naval Home, the last independent agency we will hear from this morning.

The Naval Home is requesting $10,055,000 for operations and maintenance, a capital outlay request of $1.2 million. This is the first time that the Labor, Health and Human Services Subcommittee has considered the Naval Home's funding request. Prior to this year, the Home was funded out of the Defense Subcommittee on Appropriations. The 1991 defense authorization requires the Naval Home and U.S. Soldiers' and Airmen's Home to be merged into a new, Federal independent agency, the Armed Forces Retirement Home, by 1995.

I would like to welcome Capt. Francis J. Ferry before the subcommittee today. Captain Ferry presently serves as the 57th Governor of the Naval Home, which is celebrating its 157th anniversary this year. The Home was established by Congress to provide for proper care of older and disabled members of the Navy and Marine Corps.

Captain Ferry, welcome to the subcommittee. Your statement will be made a part of the record in its entirety. If you could summarize it I would appreciate it.

Captain **Ferry**. Thank you, Mr. Chairman. It is a pleasure to appear before you today for the first time to discuss our U.S. Naval Home. I have prepared a statement for insertion in the record, but a brief summary follows.

My purpose this afternoon is to furnish information on the Home that would be helpful to the committee during considerations of the fiscal year 1992 budget. We are located, sir, on 38 acres on the shores of the Gulf of Mexico in Gulfport, MS.

Our main building is the resident dormitory that can house 580 Navy residents in individual rooms. Attached to it is a 60-bed health care complex, and routine support facilities. The remaining buildings are used to support our Home functions. Membership of the Home as of March 15, 1991, was 355.

Now I would like to digress here—sorry about the hour being late—one of our residents died on that day, and her name was Mary Reed. Mary died at the age of 94. She spent 12 years at the Naval Home. She was a World War I vet. She was a yeoman second class from Miners Mills, PA, and she was very active in politics. She served with the mayor of Philadelphia, and I think it would be a tribute to this committee and to Mary and to her family if her name would be mentioned in the Congressional Record.

Senator **Harkin**. I appreciate that. Thank you.

Captain **Ferry**. Thank you, sir. Membership at the Naval Home has been kept low because of an extensive wall renovation project, and the contractors require large blocks of rooms, but this should be completed in March 1992.

Currently as the Governor I am responsible for the administration, operations, maintenance of the Home, right now, under direction of the Chief of Naval Personnel. I have a small active duty staff of four officers, eight enlisted and civil service personnel.

Our medical administrator and dental officer on the staff are not assigned to me. They are part of tenant commands at the Naval Home. They are under the control of the Bureau of Medicine, BuMed.

But the Armed Forces Retirement Home Act will make significant changes in the administration of our Home. During fiscal year 1992 a civilian director and a civilian staff will be appointed to replace all active duty Navy personnel. Thereafter the Home administration will be civil service personnel, including the medical and dental support functions.

Fiscal year 1992 is the transition year for the Naval Home to be an independent agency as part of the Armed Forces Retirement Home.

Our main challenge at the Naval Home is to continue to provide enhanced quality of life services for distinguished residents, while at the same time working and achieving congressionally mandated national accreditation as a continuing care retirement community.

Again, all this will be done while we are transitioning from a DOD entity into an independent agency.

Also starting in fiscal year 1992 the Naval Home will be financed by the trust fund. Our fiscal year 1992 budget as you said was $11,308,000, of which $10,055,000 is for O&M and $1,253,000 for capital programs.

Mr. Chairman, the fiscal year 1992 budget request satisfies the minimum requirements of the Naval Home for maintaining the status quo in services, transition, and our initial staffing for the congressionally mandated national certification and accreditation, which we hope to achieve in fiscal year 1993.

## PREPARED STATEMENT

The U.S. Naval Home will continue to be a peaceful harbor, where shipmates take personal pride in calling it their home.

[The statement follows:]

## Statement of Capt. Francis J. Ferry

### PURPOSE

The purpose of this statement is to furnish information on the Home which may be of interest during the committee's consideration of the United States Naval Home's fiscal year 1992 budget request. Included is pertinent information on the Home: its mission, administration, physical plant, financing and members. The statement also provides a general description of the fiscal year 1992 budget request. Fiscal year 1991 funding was provided by appropriation through the Department of Defense, Department of the Navy. Under the provision of Public Law 101-510, Title XV—Armed Forces Retirement Home, several changes regarding the United States Naval Home occurred in fiscal year 1991; however, most will occur in fiscal year 1992. The Armed Forces Retirement Home Act of 1991 incorporates the United States Naval Home and the United States Soldiers' and Airmen's Home into an independent federal agency in the Executive branch to be known as the Armed Forces Retirement Home. Each facility will be maintained as a separate establishment for administrative purposes.

## MISSION

The United States Naval Home was established by Congress in 1832 to provide an honorable and comfortable home for old and disabled Officers and Enlisted members of the Navy and Marine Corps, and the Coast Guard while operating as part of the Navy, who are entitled to benefits of the institution. Both Officer and Enlisted personnel have been admitted to the United States Naval Home. Under the provision of Public Law 101-510 effective in fiscal year 1992, membership criteria changes. Membership will be a benefit for persons who served as members of any service of the Armed Forces, at least half of whose service was not active commissioned service, (except Warrant Officers and Limited Duty Officers) and who meet the following qualifications: (1) honest and faithful active service for twenty years or more and are age 60 or over, or (2) have service-connected disabilities rendering them unable to earn a livelihood, or (3) have non-service connected disabilities rendering them unable to earn a livelihood, provided they have had service in a war theater during a time of war declared by Congress or were eligible for hostile fire special pay under section 310 of title 37, United States Code, or (4) have served in a women's component or the Armed Forces before the enactment of the Women's Armed Services Integration Act of 1948, and are determined under rules prescribed by the Retirement Home Board to be eligible for admission because of compelling personal circumstances. Qualifications (2) through (4) above are subject to rules to be prescribed by the Armed Forces Retirement Home Board.

## ADMINISTRATION

United States Naval Home Staff: The Governor of the United States Naval Home is responsible for the administration and operation of the United States Naval Home under the direction of the Chief of Naval Personnel. The Governor currently has a small active duty staff consisting of an executive officer, supply officer, public works officer, and chaplain, along with a small complement of Navy enlisted and civil service personnel. The medical administrator and dental officer, and their staff are currently tenant Commands who support the Home.

The Armed Forces Retirement Home Act of 1991 will make changes in the Administration of the United States Naval Home. During fiscal year 1992 a civilian director and civilian staff will be appointed to replace the Governor and active duty Navy personnel. Thereafter the United States Naval Home administration will be civil service personnel including the medical and dental support functions. The Act establishes the Armed Forces Retirement Home Board which will exercise policy oversight over the Retirement Home and oversee the activities of the local boards of trustees. The United States Naval Home will have a Local Board of Trustees which shall exercise operational oversight over it and will provide reports to the Retirement Home Board through the Secretary of the Navy. Not later than 90 days after the end of each fiscal year, the Retirement Home Board shall submit to the Secretary of Defense, for transmission to Congress, a report describing the financial and other affairs of the Retirement Home for that fiscal year. The law provides for an inspection of the Retirement Home every three years alternating between the Inspector General of the Department of Defense and the Inspector Generals of the military departments.

## PHYSICAL PLANT

The United States Naval Home is located on a 38-acre site on the shore of the Gulf of Mexico at Gulfport, Mississippi. Eight acres are currently occupied by buildings, roads and parking lots, and the remaining 30 acres are landscaped. There are 10 principal buildings and 17 lesser structures ranging in age from 1 to 70 years old. Building One is the resident dormitory and is capable of housing 580 personnel in individual rooms. It also houses the following support functions: Medical (including a 60 bed health care complex), X-Ray, Laboratory, Dental, Barber and Beauty Shops, Navy Exchange, 2-lane Bowling Alley, 180-seat Movie Theater, Post Office, Laundry Distribution Room, Bank, Library, Game Room, Ball Room, Lounge, Snack Bar, full service Kitchen and Dining Facility, Administration, Resident Affairs, Security, Social Work and Recreation departments. The remaining buildings/structures are used to support United States Naval Home functions such as Public

Works, Supply, Religious Programs, Security, Warehousing and Recreation as well as to house five key staff personnel.

## FINANCING

The Armed Forces Retirement Home Act of 1991 establishes in the Treasury of the United States a trust fund to be known as the Armed Forces Retirement Home Trust Fund. Currently there exists within this fund separate divisions for the United States Naval Home and the United States Soldiers' and Airmen's Home. Trust fund income will consist of fines and forfeitures, monthly deductions from the pay of enlisted members and warrant officers, interest on the fund, and members' monthly fees. The new law requires that the member's monthly fee include a percentage of retired pay, compensation or pension paid by the Secretary of Veterans Affairs, as well as civil service annuities and Social Security payments. Starting in fiscal year 1992 the U.S. Naval Home will be financed by the trust fund.

## MEMBERSHIP

Membership as of 31 December 1990 was 357. Our male members range in age from 54 to 101 years, with an average age of 76 years. Our female members range in age from 59 to 96 years, with an average age of 79 years. There are 41 female members. The average age of the patients in the health care facility is 75 years. Average total membership during the fiscal year 1990 was 361. Membership has been kept at a low level because of an extensive wall renovation project where the contractor is working on numerous rooms. The project is scheduled for completion in March 1992

## THE FISCAL YEAR 1992 BUDGET FOR OPERATION AND MAINTENANCE

The United States Naval Home's fiscal year 1992 operation and maintenance budget request is $10,055,000.

## THE FISCAL YEAR 1992 BUDGET FOR CAPITAL PROGRAM

The United States Naval Home fiscal year 1992 capital outlay budget request is $1,253,000.

## CONCLUSION

The residents of the United States Naval Home appreciate the Congress' interest in their welfare.

## FISCAL YEAR 1992 CAPITAL PROGRAM

The Home's Capital Program request for fiscal year 1992 is $1,253,000 which will support needed restoration and improvement projects among the Home's facilities including: repairs and alterations to food service facilities; installation of additional 500KW emergency generator; modification to quarters and carports; and upgrading public address system and nurse call system.

## PROJECTS

*Repairs and alterations to food service facilities ($897).*—Includes repairs to floors, ceilings and walls, installation of floor drains and modifications to the garbage disposal system, ventilation system and food service area. Hazardous conditions include slick surfaces which pose a constant slipping hazard and require resurfacing and provisions for drainage; and inadequate ventilation in high heat/moist areas. Existing walls are deteriorating from excessive moisture, are expensive and difficult to maintain and provide a constant breeding ground for roaches. Structural ceiling supports and metal are severely rusted/corroded. The garbage disposal system is inefficient, antiquated and extremely costly to maintain. The poor condition of the food service facility was listed as a major discrepancy in the 1990 DOD Inspector General's report.

*Install additional 500KW emergency generator ($81).*—The additional emergency generator is required to provide power for HVAC at select areas and for critical equipment and spaces not supported by the single unit currently in place. In addition, the second generator will be used to back-up the existing unit in case of failure or during servicing if needed in a hurricane disaster.

*Construct modification to quarters and carports ($75).*—Expansion of four quarters is required to meet space allowances authorized for GS-13 and higher civilian employees. Current net square footage is short of requirement. Included are modifications to existing carports which will protect property from constant exposure to the salt air environment and will provide much needed storage space.

*Upgrade public address system and nurse call system ($200).*—Includes replacement of antiquated equipment, improving quality of sound for population served and increase the ability to zone messages to specific areas if required.

### INDEPENDENT LIVING AND SOCIAL INTERACTION

Senator HARKIN. Thank you very much. Are you based here, or are you based in Mississippi?

Captain FERRY. Gulfport, MS, sir.

Senator HARKIN. You are based there, physically.

Captain FERRY. Yes, sir; the Naval Home was in Philadelphia, PA. Congress in 1811 established the Home. It opened in 1834. In 1976 we moved down to Gulfport, MS. We are stationed there, sir.

Senator HARKIN. You have been in the Navy for 26 years?

Captain FERRY. Yes, sir.

Senator HARKIN. You are a P-3 pilot?

Captain FERRY. Yes, sir.

Senator HARKIN. I have a lot of friends who flew P-3's. I was a Navy pilot myself, but I never flew it. I used to get rides in them all the time, back and forth in different things.

Captain FERRY. I have 5,000 airborne hours inside the P-3, sir.

Senator HARKIN. Is that right? Good old work horse.

Are they still flying P-3's?

Captain FERRY. Yes, sir; I do not fly it now.

Senator HARKIN. Is the Navy still flying P-3's?

Captain FERRY. Yes, sir; off both coasts and Hawaii. At Moffett Field, CA. Barbers Point, HI, and a big base in Brunswick, ME. They are also based in Jacksonville, FL.

Senator HARKIN. One of the other hats that I wear here, aside from the independent agencies, I also chair the Disability Subcommittee on the Labor, Health, Human Services Committee. One of the things I am interested in is how best to ensure that those who perhaps are somewhat disabled have the maximum opportunity for independent living and social interaction during their time as residents of different institutions.

This applies also to the Naval Home. Do you have programs and projects in that area specifically designed to help residents in independent living? I do not know what kind of living arrangements you have in the Home.

Captain FERRY. Yes, sir; the Home is primarily a retirement home. It is really a continuing care retirement community. As a resident, you can walk in playing golf, then the next likely phases are: intermediate care, a residential care, to skilled nursing care. So we have the whole gamut.

Right now, people who are handicapped as far as wheelchair dependency live on the second floor, and the third floor. We would like to get them down to the ground floor as soon as we can receive design money to build an 80-bed residential facility so they will not be elevator dependent. They have to use the elevator to get up to their rooms, so on the ground floor they would have more independence with immediate access to the outside.

Also we will make a part of this 80-bed facility an Alzheimer unit. That is one of our goals, and if I could get $200,000 for design money in addition to my budget, I would be more than happy to accept it for that effort, sir.

Senator **Harkin**. We will take that into consideration.

So you have some residential living there, where they cook?

Captain **Ferry**. No, sir; they do not cook. When I say residential, we provide them per the term "residential," maximum independence. They come and go as much as they can. We allow them maximum independence, including access to the outside.

Senator **Harkin**. There is a central eating place, and food is prepared?

Captain **Ferry**. That is correct. My philosophy of the Naval Home, when I first went to it I thought it was going to be a nursing home, but it was not. And then I said it must be a retirement home, and it was not really a retirement home, because I consider a retirement home as a condominium-type home, where you have your master bedroom, your kitchenette and your entertainment unit.

What we have are individual rooms. I said, what is this place, because I am going to have to talk to people about it, like this committee. The way I can describe our Home best is to call it family. I grew up in a family of seven brothers and four sisters, so I did not have my own room. But if you had your own room when you grew up, your parents wanted you to live in it only to sleep and do some paperwork like homework. Your parents wanted to take you out of your room and provide you your needs: your medical needs, your spiritual needs, your nutritional needs, in order for you to adopt the personality of your family.

They did not want you to be a hermit. And that is what we do at our Home. The residents sleep in their rooms, watch some television, do some paperwork, but they get out of their rooms and they animate each other, and it is family to us, sir.

Senator **Harkin**. It sounds pretty good.

I do not have any other questions. I am intrigued by it. I was not aware of the Naval Home before, but certainly we are going to have to pay attention to it now. So please feel free to give us any information later on that you think we need in order to make the budget and to appropriate the amount of money.

Captain **Ferry**. The only thing I can say is in the near future we want this accreditation so that we can quickly get the accreditation then we will need more people to do that, more people than we have in the fiscal year 1992 budget. So once again, I would like to throw in the request for 13 FTE additional people, at the cost of $388,000 to the committee.

Senator **Harkin**. Do you have that in a formal request?

Captain **Ferry**. This is just verbal. No, sir; I do not have a written formal request. This is an addition to the fiscal year 1992 budget.

Senator **Harkin**. Say that again?

Captain **Ferry**. I am requesting 13 additional full-time equivalents at a cost of $388,000, and these are people like nurses, pharmacists, and ward clerks, police officers.

Senator **Harkin**. Would you like to amend your original budget request to us?

Captain **Ferry**. Yes, sir; I would like an additional $388,000 for 13 full-time equivalents, an additional $200,000 in capital outlay for design money for that 80-bed residential care facility.

### QUESTIONS SUBMITTED BY THE SUBCOMMITTEE

Senator **Harkin**. Captain, thank you very much for being here. I appreciate your patience in waiting. There will be some additional questions which we will submit to you for your response.

[The following questions were not asked at the hearing, but were submitted to the U.S. Naval Home for response subsequent to the hearing:]

## QUESTIONS SUBMITTED BY THE SUBCOMMITTEE

**Resident Independence and Social Isolation:**

**QUESTION:** Captain, in recent hearings with the Soldiers' and Airmen's Home, I raised the issue of how best to ensure that members have the maximum opportunity for independent living and social interaction during their time as residents.

Do you have any special programs or projects that are specifically designed to help residents in these areas?

**ANSWER:**

THERAPEUTIC RECREATION :

Provides evaluation, treatment, education and counseling services under the supervision of a Certified Therapeutic Recreation Specialist, to mature adults, that suffer from a loss of independence and must rely on others to meet everyday needs.

Provides an activity-oriented program to those able bodied/well residents that may serve as a preventative measure to ensure both quality of life and maintenance of maximal social, emotional, and physical condition. These programs are under the direction of a Certified Therapeutic Recreation Therapist.

There are four formalized treatment programs where all residents with similar needs (usually similar diagnosis) are grouped together and receive treatment by a Mulitidisciplinary Team specializing in the areas of their needs as follows:

a. Organic Brain Syndrome Program
b. Leisure Therapy Program
c. Wellness Program
d. General Conditioning/Rehab Program

The Therapeutic Specialist does morning walk, exercise class, bowling, swimming, shuffleboard, croquet, darts, fitness trail and chair exercise programs; and cognitive function: reality orientation, arts and crafts, games, books, tapes, reminiscence groups, movies and productive work tasks.

Social Functions, such as parties, socials, outings, field trips, luncheons, picnics and home entertainment is geared to their respective ages and physical conditions.

Special Activities include overnight camping trips (with recreation therapists, LPN's and supportive staff in attendance),

THERAPEUTIC RECREATION/ SERVICES PROGRAMS:

Daily:

1. Morning Walks
2. Exercise Class
3. Individual Leisure Interests
4. Leisure Counseling
5. Personal Contacts
6. Documentation

Monthly:

1. Ice Cream Socials
2. Deep Sea Fishing Trips
3. Birthday Dinners

Intellectual:

1. Guest Speakers
2. Tours (Southern States)
3. Video Series
4. Library Series
5. Intergenerational/ Educational Programs

Levels of Care:

1. Independent Living
2. Intermediate Care Facility
3. Life Enrichment Unit
4. Branch Hospital

**Weekly:**

1. Reminiscence Groups
2. Game Room (Tournaments)
3. Socials
4. Arts & Crafts
5. Luncheons (Off Base)
6. Outings
7. Movies
8. Music
9. Group Activities
10. News Currents
11. Resident Work Projects
12. Pet Therapy

**Yearly:**

1. Camping-Cabins/State Pk.
2. Major Parties 8/Yr.
3. Resident/Staff Activities
4. ICF Parties 3/Yr.
5. Senior Games (Local)
6. Senior Games (State)
7. Major Picnics 3/Yr.
8. Auctions 2/Yr.

**On Base Facilities:**

1. Swimming Pool
2. Bowling Alley
3. Hobby Shop
4. Auto Hobby Shop
5. Electronic Shop
6. Video Reproduction
7. Bicycle Shop
8. Game Room
9. Theater
10. Library
11. Shuffleboard/Patio
12. Music Room
13. Exercise Room
14. Greenhouse

Programs are offered on a structured and unstructured basis to meet the needs, interests and capabilities of participants. The structured programs are offered to encourage maximum participation of residents in recreational activities. The intent of the unstructured programs is to allow the residents the opportunity to use their leisure time as they choose by providing the facilities and equipment needed. Participation in either structured or unstructured programs is not mandatory, but is strongly encouraged.

**CONSOLIDATED MESS :**

Consists of a lounge and snack bar to provide a setting for the Residents to socialize and enjoy scheduled entertainment. The snack bar provides short order food, primarily at the lunch meal, but also is used as a gathering place to socialize/and or drink coffee throughout the night. Because cooking utensils are not allowed in individual resident rooms, meals must be consumed in either the snack bar, cafeteria, of off base.

**PROJECTS:**

To best ensure that residents of the Naval Home have the maximum opportunity for independent living and social interaction during their time as residents, the Naval Home has:

- Equipped outside entrance doors to main residence building as well as inside doors to such areas as hospital and residents' bank with electric eyes for easy access.

- Lowered counters in residents' bank for wheelchair access.

- Modified all sidewalks and curbs for wheelchair or handicapped access.

- Modified first floor restrooms for wheelchair or handicapped access.

- Installed handrails throughout residence building on first, second and third floors.

- Lowered call buttons and emergency telephones inside elevators for wheelchair access.

- Lowered fire alarm pull stations to put within reach of wheelchair dependent residents.

- Requested design/construction of a new one-story 80-bed facility to accommodate all wheelchair dependent or handicapped residents.
- Equipped recreational facilities (swimming pool/bowling alley) for handicapped use.
- Completed design of new therapeutic pool; however, project was not funded in FY91.
- A staff of therapeutic recreation specialists who plan and carry out special recreational activities for wheelchair dependent and/or handicapped residents on a regular schedule.
- Recently purchased an 18 passenger van equipped with wheelchair lift and a smaller van for hospital transportation.
- Completed plans for new hobby shop designed for handicapped access and easy access from main residential building without needing to go out in the elements to use; project awaiting funding.
- Galley renovation planned for FY92; handicapped attended mess will be completely renovated for easier access and service.
- Raised tables in all activity rooms to accommodate wheelchairs.
- Established handicapped parking areas in parking lots.
- Equipped charging areas for battery-operated wheelchairs inside main residence building.
- Completed a specially designed post office with lowered boxes reserved for wheelchair dependent residents and allowing residents 24-hour mail access.
- Telephones equipped with amplification for hearing impaired residents.
- Installed strobe lights in rooms of hearing impaired residents for fire alarm alert.

NAVAL HOME STAFF

QUESTION:

Captain, I see that you are requesting 181 positions for 1992, and that a number of your personnel are now on loan from the Department of the Navy.

ANSWER:

181 civilian positions requested for 1992. 181 accounts for the present 15 military positions, all of which will have rotated by June of 1992. Civilians will be substituted in all the positions currently filled by military personnel.

Of the current 60 medical personnel on staff, only three are active duty military personnel (Dental Officer and two Dental Technicians). The remainder of the medical staff are already civilians.

Occupational categories for the remainder of the Naval Home Staff are: Social Work, Security, Chaplain, Recreation Specialist/Therapist, Clerical, Administrative, Financial Management, General Health Science, Engineering, Contracting, Quality Assurance, Purchasing, Facilities Management/Maintenance,and Supply.

Earlier a need was identified for an additional $388,000.00 for 13 additional staff for medical and safety support in preparation for Congressionally mandated certification programmed for FY93.

## 1992 Budget Request

**QUESTION:**

I understand that, in the transition from indirect Department of Navy funding to preparing an independent agency budget request, it was difficult for the Home to accurately pinpoint its 1991 funding baseline or to forecast its funding needs for the coming year. Can you explain briefly what assumptions you made in estimating the Home's 1992 operating and capital expense requirements?

**ANSWER:**

The following items were considered in establishing the budget estimate for FY92:

1. That the USNH would be responsible for funding all activities currently performed at the Home, including the total transfer of tenant commands and Navy infrastructure functions to the Home.

2. An assessment was made of the cost of the additional requirements necessary to comply with the Armed Forces Retirement Home Act of 1991; i.e. personnel, equipment, consumable supplies, additional responsibilities arising from collection of fees and changes in eligibility criteria, support of the Armed Forces Retirement Home Board and local Board, and the process of certification of the Home.

3. All military billets would be converted to civil service.

4. All Nonappropriated Fund Instrumentality personnel would be employed as civil service.

5. That the resident capacity of the USNH will begin to grow following completion of the ongoing Brick Panel Construction Project from the current population of 352 to 384 at the beginning of FY92 and 470 by the end of FY92.

6. A number of medical services currently received or provided at no charge will incur costs, i.e.

   a. Clinical Laboratory support:
   b. Bio-Medical Repair Support
   c. Specialty Programs:
      Sight Conservation
      Asbestos Management Program
      Hearing Loss Detection and Prevention Program
      Hazardous Waste Management and Disposal
      Bio-Hazardous Waste Management and Disposal
   d. X-ray Support and Services
   e. X-ray Film Reading and Interpretation

7. Purchase of a number of equipment items previously deferred, most notably in the area of medical support.

8. Funding for capital program items for which design would be completed in FY91.

## Condition of the Facility:

**QUESTION:**

I understand that the Home's main facility was built in 1976 and that it is currently undergoing a four-year renovation.

Can you describe the scope of this renovation and the particular construction projects that the Home will undertake this year?

**ANSWER:**

The Naval Home main structure was built in 1976. Original design of the facility did not include provisions considered essential to accommodate the needs of elderly and handicapped personnel. Additionally, due to poor quality workmanship and inferior construction materials used during original construction, numerous structural, mechanical and electrical deficiencies continue to plague the home and require corrective action. A specific "four year" renovation plan does not exist but we have aggressively endeavored to systematically overcome the most critical deficiencies that have the greatest impact on resident safety and quality of life. Major work accomplished in recent years is summarized as follows:.

FY87: $800K Repair bathrooms in resident rooms and showers in dormitory and hospital; repair wall/floor in hospital.

FY88: $425K Install fire alarm system and overhaul air conditioning cooling towers.

FY89: $13.7M Replace exterior walls/roof; replace primary electric feeder cable; upgrade/repair all elevators; install emergency lighting; replace transfer switch for emergency power system.

FY90: $660K Install emergency exit lights; install ground fault interrupters at all wet areas; upgrade post office to allow 24 hour access; install overhead lights, expand oxygen system in hospital patient rooms, upgrade nurse stations; install handicap facilities in 1st floor bathrooms; construct additional fire walls/install fire doors in dormitory area; replace air conditioning system condenser pumps; design repairs to exhaust system ventilation; install hand rails 2nd and 3rd floors.

Due to lack of funding, we have not been able to accomplish any major repair work in FY91. Our plans included the following:

FY91: $338K Install therapeutic pool at hospital; design for installation of an additional emergency generator; design for upgrade of the nurse call system in the hospital and the main facility public address system; design and enclosure of a storm drain that divides the north section of the property and is a safety hazard to residents.

Plans for FY92 are as follows:

FY92: $1.253M (funded by OMB) Repairs and alterations to food service facilities; installation of an additional 500 KW emergency generator; modifications to five family housing units and upgrade of the nurse call and public address system.

FY92: $1.3M (unfunded by OMB) $613K for following capital projects: Install therapeutic pool at hospital and design and enclosure of the storm drain. (These are projects carried over from FY91). Design for construction of an 80 bed residential care facility; design for installation of two additional elevators in existing vacant shafts; design to replace the telephone system; design to construct additional parking for additional population and design for a traffic monitor shelter at the Naval Home entrance. $693K for following repair projects: Replacement of insulation on chill and hot water lines; repair resident bathrooms to include wall and floor cover to match finishes installed during brick panel replacement project; repair of pavement and drainage; design for repair of the present hobby shop building #8;design to repair sewer system for out-buildings #13 and 22; repairs to the chapel roof structure; repairs to the recreation pool; replacement of cooling equipment for elevator controls; replacement of exhaust fans in the green house; pressure washing precast concrete exterior of building #1 and repairs to boilers.

## SUBCOMMITTEE RECESS

Senator **Harkin**. This subcommittee will stand in recess to reconvene at 2 p.m., to receive testimony from the remaining agencies.

[Whereupon, at 12:32 p.m., Thursday, March 21, the subcommittee was recessed, to reconvene at 2 p.m., the same day.]

(AFTERNOON SESSION, 2:16 P.M., THURSDAY, MARCH 21, 1991)

The subcommittee met at 2:16 p.m., in room SD-192, Dirksen Senate Office Building, Hon. Tom Harkin (chairman) presiding.

Present: Senators Harkin, Specter, Stevens, and Gorton.

## NATIONAL COMMISSION TO PREVENT INFANT MORTALITY

### STATEMENT OF LYNDA JOHNSON ROBB

### OPENING STATEMENT OF SENATOR HARKIN

Senator **HARKIN**. Good afternoon. The Appropriations Subcommittee on Labor, Health and Human Services, and Education will come to order.

This afternoon we will hear testimony from the final panel of independent agencies funded under title IV of our appropriations bill.

We will begin this afternoon with testimony from Mrs. Lynda Johnson Robb on behalf of the National Commission to Prevent Infant Mortality.

The Commission's fiscal year 1992 request is $450,000, an increase of $50,000 over last year's level.

We are certainly delighted and honored to have Mrs. Robb with us today. Since her days as First Lady of Virginia, Mrs. Robb has been a vocal and dedicated proponent of both national literacy and children's issues. I want to personally welcome you here today in your first appearance before this subcommittee.

The Commission was created during the chairmanship of my distinguished predecessor, former Senator Lawton Chiles, now Governor of the State of Florida. When it was established in 1987, the Commission's mission was a critical one, and it remains so today.

The Commission is responsible for creating a national strategic plan to reduce infant mortality and morbidity in the United States. Recent statistics underscore the need for this kind of dedicated effort. So, I look forward to hearing more about the Commission's current efforts to implement its recommendations and the activities planned for 1992.

At this point, I would ask unanimous consent to keep the record open for any opening statements by Senator Specter.

Again, my apologies to you, Mrs. Robb and to all of you, for being late, but as you know, we just had a vote on the Senate floor and you know what that means.

Ms. **ROBB**. I'm all too familiar with having things delayed by Senate votes. [Laughter.]

Senator **HARKIN**. Well, thank you for being here and please proceed with your statement.

Ms. **ROBB**. Senator Harkin, I want to thank you for this opportunity to appear before you today regarding the ongoing work of the

National Commission to Prevent Infant Mortality. On behalf of Governor Chiles and the other members of the Commission, I want to convey our appreciation for your continuing support of our work. In our testimony I will discuss the Commission's many efforts to promote the health and wellbeing of pregnant women and children. I will also briefly discuss the work we are doing with our private sector support.

As you know, in fiscal year 1989 and through 1991, our appropriation requests have been decreasing. Both this year and last, our funding level has been maintained at $400,000. Each year we have requested either fewer funds or no funding increases because we are committed to obtaining private support to augment our public support. We feel that such public/private partnerships are critical for galvanizing the Nation's creativity and commitment for mothers and children.

We will continue to work closely with the private sector and foundations, but for 1992 we are requesting an increase to $450,000 to accommodate for inflation and necessary salary adjustments that we have been absorbing over the last 3 years. We appreciate your consideration of our request.

The current work of the Commission is focusing on promoting the recommendations made in our 1988 report to Congress and the President, "Death Before Life: The Tragedy of Infant Mortality." For your reference and for the record, Mr. Chairman, I have included with my testimony a recently completed status report on the Commission's past and current activities and our future plans.

As an overall statement, we believe that there is notable progress being made on many of the recommendations of the Commission. For example, financial coverage for health care primarily through increased Medicaid eligibility has been improved for pregnant women and children. Many communities are conducting public awareness activities about prenatal care. States are working with physicians to encourage them to take in low-income patients. More and more business leaders are recognizing that improving maternal and child health makes good business sense.

There also is growing activity in one of the most effective strategies I know of and one that is strongly promoted by the Commission: Resource Mothers. These home visiting programs provide services directly in the home and also link mothers up with the community services that they need. The Resource Mothers programs that I am most familiar with are in Virginia. We have had great success. We serve teenage mothers, and we have been able to reduce the infant mortality rate to 8.4 compared to 14.7 for babies born to teenage mothers not enrolled in Resource Mothers. The low birthweight rate for our babies averages 5 percent compared to 11 percent for those who are not in our program. And our young mothers are much more likely to turn to high school than others. Certainly helping these young women finish high school is one of the best insurance policies that we can ever give her and her child.

We have enjoyed working particularly with you to promote Resource Mothers, and we appreciate your joining us in releasing our GAO report on home visiting last year.

Despite this good progress, however, the Nation still has a long way to go. Our country's infant mortality rate is still higher than that of 20 other nations. We have made no progress in reducing the national rate of low birth weight. And this is interesting. Since the 1960's we have had the same percentage of low birthweight. We are just saving babies that never would have been saved before in high tech medicine, but we are not doing anything about preventing the low birthweight in the first place which is the cause of most babies dying. And tens of thousands of women are still not getting into early prenatal care.

The Infant Mortality Commission sees its continuing role as advising Congress and the public about what works and what steps are needed to improve maternal and child health. We aim our message to decisionmakers to help them see what they can do.

Let me offer just a few examples of some of the projects that we are working on now and that we have planned for next year.

One-stop shopping. We soon will issue a report on one-stop shopping to highlight the importance of integrating health and other services for mothers and children and to recommend policy changes and practical strategies that are needed to accomplish this. It is appalling that we make women grope along through a confusing maze of application forms, service locations, and bureaucratic procedures, and then we are surprised that we have not made much progress in getting them into prenatal care, or that their babies' colds turn into pneumonia. We should be appalled at this mess that we have created.

The National Health/Education Consortium is another exciting project that we have recently started. Over 40 national health and education organizations, with a total of 11 million members, have joined hands with us and our cofounder, the Institute for Educational Leadership, to establish this consortium. Our purpose is to begin to meld the worlds of health and education for children from the policies we make to the work of individual teachers, doctors, and nurses.

As you are well aware, Mr. Chairman, if we want our children to learn in school and become productive citizens, they have to be born as healthy as possible in the first place, and other health and related problems must be prevented or nipped in the bud. The consortium hopes to act as a catalyst to get these problems taken care of and to build bridges between the health and education sectors.

With major support from a private foundation and the Departments of Health and Human Services and Education, we have issued two reports and we plan several more. Over the next few years, we also will be putting together conferences in cities and communities around the country to raise awareness and to look at model approaches for blending health and education services for children.

Universal access to care is another central focus of the Commission. That was one of the things that we said was vitally important in our first report. We have been working with the Brookings Institution on a policy report on universal access to care for pregnant women and children. The report will be released this summer and is based on a symposium sponsored by the Commission and Brookings. We feel this kind of report is an important contribution to the growing debate on health care reform. Most reform proposals focus primarily on health insurance as the answer to the problems of those without access to care. However, as important as this is, an insurance card alone does not make health care happen. We also need to inject other strategies into the system that can make the difference between getting care and not getting care, such as outreach, home visiting, and placing more doctors and nurses in our inner cities and our rural areas.

We also are working with the Pan American Health Organization and the World Health Organization to plan an international health ministers meeting for this fall in Washington. Building on the Commission's hearings at the United Nations back in February 1988, we will use this opportunity to highlight the many lessons that we can learn from other countries about cost-effective, basic approaches to getting primary health care and education to mothers, and children and to reduce infant mortality.

Many of our current activities will carry over into next year. We also hope to work more with States and local leaders and to act as a catalyst to give them ideas and leads for building their commitment to helping mothers and children. For example, we are working with the U.S. Conference of Mayors to develop city-based projects focused on reducing barriers to prenatal and primary care for mothers and children. Also, we plan to build on our work with business organizations, such as the Committee for Economic Development and the Washington Business Group on Health. We will be developing a series of round table meetings in cities and communities to highlight how business can provide further assistance to addressing the concerns of maternal and child health. We also will be developing projects over the coming months on substance abuse during pregnancy and a project on maternal and child health in minority populations.

A final example of our plans is a series of regional seminars for news journalists. We plan to bring journalists together to learn about infant mortality and maternal and child health issues, the facts behind these stories, and the contacts they may want to develop to enhance their ability to write about these important issues.

## PREPARED STATEMENT

In conclusion, Mr. Chairman, the Commission has embraced a range of activities to promote policy and practical solutions to improve maternal and infant health. The strategies are out there. It's a matter of putting that knowledge into the hands of those who can make a difference.

We appreciate the opportunity to be here today, and we look forward to working with you. Thank you.

[The statement follows:]

## Statement of Lynda Johnson Robb

Chairman Harkin and members of the subcommittee, I want the thank you for this opportunity to appear before you today regarding the ongoing work of the National Commission to Prevent Infant Mortality. On behalf of Governor Chiles and the other members of the Commission, I want to convey our appreciation for your continued support of our work. In our testimony I will discuss the Commission's many efforts to promote the health and well-being of pregnant women and children. I will also briefly discuss the work we are doing with our private sector support.

As you know, in fiscal years 1989 through 1991, our appropriation requests have been decreasing. This year and last, our funding level has been maintained at

$400,000. Each year we have requested either fewer funds or no funding increases because we are committed to obtaining private support to augment our public support. We feel that such private/public partnerships are critical for galvanizing the nation's creativity and commitment for mothers and children.

We will continue to work closely with the private sector and foundations but, for fiscal 1992, we are requesting an increase to $450,000 to accommodate for inflation and necessary salary adjustments that we have been absorbing over the past three years. We appreciate your consideration of our request.

The Commission was established by Congress in 1987 to develop a national strategy to reduce infant mortality and morbidity. In our report to Congress entitled, "Death Before Life: The Tragedy of Infant Mortality," we made two overarching recommendations. First, the nation must assure universal access to early prenatal and pediatric care for mothers and children. Second, we must make the health and well-being of mothers and infants a front-row, national priority. These two goals go hand in hand; one cannot happen without the other. All the Commission's current efforts are focused on one or both of these recommendations. For your reference and for the record, Mr. Chairman, I have included with my testimony a recently completed "Status Report" of the Commission's past and current activities and our future plans. I will highlight some of these in a moment.

As an overall statement, I believe some notable progress is being made on many of the recommendations of the Commission. For example, progress is being made in extending financial coverage for health care, primarily through increased Medicaid eligibility, for pregnant women and children. Many communities are conducting public awareness activities to alert women to the importance of prenatal care, the dangers of unhealthy habits such as smoking and drug abuse, and how to obtain services. States are working with physician groups to find ways to encourage more of them to take low-income patients.

There also is growing activity concerning one of the most effective strategies I know of and one that is strongly promoted by the Commission: Resource Mothers. These programs send trained lay workers into the homes of pregnant young women to deliver services, develop a rapport with the mothers, and link the mothers up with the community services they need. We know that Resource Mothers programs work. The ones I am most familiar within the State of Virginia have led to improved birth weights and reduced repeat pregnancies, and the teenage mothers enrolled in the programs are more likely to finish high school. And helping one of these young mothers finish high school is one of the best insurance policies we can give her and her child. We have enjoyed working with you to promote Resource Mothers and other home visiting programs, Mr. Chairman, and look forward to working with you in the future.

Despite this good news that we are making progress, we still have a long way to go. Our country's infant mortality rate is still higher than that of 20 other nations, many communities have rates that rival the third world, we have made no progress in reducing the rate of low birthweight, and tens of thousands of women still are not getting into prenatal care early.

Why? What's the problem here? It isn't that we don't know what to do. We do! We know what works. Prenatal care works, good nutrition works, preventive care for infants works, and the list goes on. But we still have to push and pull and prod to get communities, individuals, and everyone in leadership positions to act on all the good, common sense, solutions that are out there!

The National Commission to Prevent Infant Mortality sees its continuing role as advising Congress and the public about what works and what steps must be taken to improve maternal and child health. Our projects promote the kind of approaches we believe are central to improving the health and well-being of mothers and infants in this country. Through our reports, our work with members of Congress, our work with the media, and our joint projects with other public and private sector groups, we aim our message to decisionmakers throughout society and use the Commission's recommendations as our guiding force.

In the status report I am submitting with my testimony, we describe the Commission's projects in some detail. Let me offer just a few examples of the key projects we are working on now, and what we plan for next year.

### ONE-STOP SHOPPING

Based on one of our recommendations to Congress, we will soon be issuing a report on "one-stop shopping" to highlight the importance of integrating health and other services for mothers and children and to recommend policy changes and practical strategies that are needed to accomplish this. It's appalling that we make women grope through such a confusing maze of application forms, service sites, and cumbersome bureaucratic procedures—and then we're surprised that we haven't made progress in getting them into prenatal care early, or that their babies' colds don't get treated and turn into pneumonia! I'd say we should be appalled at ourselves for creating such a mess.

## NATIONAL HEALTH/EDUCATION CONSORTIUM

Another exciting project we recently started is the "National Health/Education Consortium." Over 40 national health and education organizations have joined hands with us and our co-founder, the Institute for Educational Leadership, to establish this Consortium whose purpose is to begin to meld the worlds of health and education for children, from the policies we make to the work of individual teachers and doctors.

With major support from a private foundation and the Departments of Health and Human Services and Education, we have issued two reports and plan several more. Over the next few years, we also will be putting on conferences in cities and communities around the country to raise awareness and to look at model approaches to blending health and education services for children.

As I know you are well aware, Mr. Chairman, if we want our children to learn in school and become productive citizens, they have to be born as healthy as possible in the first place, they must be protected from environmental hazards and get their immunizations, and other problems must be nipped in the bud. The Consortium hopes to act as a catalyst to get these problems taken care of and to build bridges between the health and education sectors. We look forward to working with you as this project progresses.

## UNIVERSAL ACCESS TO CARE

The Brookings Institution will soon be releasing a policy report on universal access to health care for pregnant women and children, based on a symposium we held with Brookings. We feel this kind of report is an important contribution to the growing debate on health care reform. Most reform proposals focus primarily on insurance as the answer to the problems of those without access to care. However, as important as this is, an insurance card does not make access happen, especially for poor or at-risk families. We need to also inject other strategies into the system, such as outreach, public awareness, home visiting, getting more doctors and nurses into our inner city and rural areas, transportation assistance, and other initiatives that are not necessarily insurance-related but that do make the difference between getting health care and going without.

Many of these and our other activities will carry over into next year. We also plan to work with state and local policymakers and decisionmakers to initiate action at those levels. For example:

We are working now with the U.S. Conference of Mayors to develop a city-based project focused on reducing barriers to prenatal and primary care for mothers and children.

Also, building on the growing leadership in the business community on behalf of women and children, the Commission will be working with business organizations to develop a series of roundtable meetings in cities and communities to highlight how business can provide further assistance to addressing the concerns of this population.

We will also be developing projects over the coming months on particularly significant issues affecting maternal and infant health: substance abuse during pregnancy and issues affecting maternal and child health in minority populations.

A final example of our plans is a series of regional seminars for news journalists. As you know, the public's opinions and views on what is important and what should be done about a problem are significantly shaped by the media. We plan to bring journalists together to learn about infant mortality and maternal and child health issues, the facts behind the stories, and the contacts these journalists can begin to develop to enhance their ability to write about these important issues.

In conclusion, Mr. Chairman, the Commission has embraced a range of activities to promote policy and practical solutions to improve maternal and infant health. We are called on frequently to assist and guide individuals and organizations around the country who are working to break down barriers to health care and to engage communities in solving problems. The strategies are out there; it's a matter of putting that knowledge in the hands of those who can make a difference for mothers and children.

We appreciate the opportunity to be here today and look forward to continuing to work with you in the future. Thank you.

## INFANT MORTALITY

Senator HARKIN. Lynda, let me thank you for a fine, fine statement, but let me more than that thank you for your great leadership in this area. I know this is a labor of love for you. It is a great dedication and you have been able to accomplish magnificent things with very little resources.

When I look and I see the tragedy of infant mortality in this country, as you said—what? We're behind 20 other nations. And what we have to do to leapfrog—we can't wait 30 or 40 years. Let's get at this problem. The big job that is out there—I am almost embarrassed that we are only giving you $450,000 when you think of the magnitude of the problem and what has to be done. So, I do not think in any way you ought to be at all reticent in asking for whatever increases are necessary to undertake the projects that you have outlined for us.

I am really enthused by what I have seen the Commission do. I am especially enthused by the project you started in Virginia, the——

Ms. ROBB. Resource Mothers.

Senator HARKIN. Resource Mothers. Thank you. To me that really rings a bell. These are people that can talk to those individuals that are probably close to them either in terms of their socioeconomic status or neighbors, that kind of thing. And I have often thought that is one of the best ways to get to some of these at-risk mothers early on. And whatever you can do or whatever we can do to help promote that, I would like to.

Ms. ROBB. Well, we would be much better off if we could have Resource Mothers all over Virginia and all over the United States. So, one of the things we hope the Congress will look to is how can we make these services available because, in the end, it is going to save us a lot of money. It's not just good for your heart strings. It's good for your purse strings because we are going to end up paying for those babies, and for the hundreds of thousands that live with terrible mental or physical handicaps. And so, if we can prevent that from happening by very simple things like getting prenatal care to mothers, we will save the country a lot of money.

Senator HARKIN. Well, I have been in neonatal care units and seen these little teeny babies. I guess I have heard as high as maybe $2,000 a day to take care of them, and we pay it gladly. We pay it gladly. But then for maternal and child health care, I've seen figures of less than $1,000 for the entire 9 months to get information, nutrition, supervision, that kind of stuff to an at-risk mother to have a healthy baby. It seems to me that is where we ought to be going, in that direction. We are penny wise and pound foolish sometimes in the way we fund these programs.

Infant mortality really is a blight on our national character in this country that is so rich and powerful with all of the resources we have. But again, this is my own feeling I am now describing to you. My own feeling is that we have gotten away from prevention, preventative care, maternal and child health care programs, all the things that are necessary, and we have sort of gotten away from those. And we have got to get back to that. And that is why this Resource Mothers idea and the in-home services is something that I think is worthwhile.

Ms. ROBB. Absolutely. We have to make it easier to get people in the system. If you have tried to fill out those forms that we ask people, children or teenagers in many cases, to fill out you'd be shocked. The forms are 20 pages or more in many States! They want to know how much do you have in your IRA. And these children have maybe sixth or eighth grade educations. Maybe some of them are fortunate enough to have a high school diploma. I looked at some of these forms, and you fill out that form for WIC. And then you have to fill out another one for Medicaid. And you have to fill out another one for something else. So, this one-stop shopping concept I think could also save the government a lot of money and would really help these young people. So, I look forward to having your support when we come out with that report.

Senator HARKIN. Yes; you definitely have my support. There's no doubt you have my support. You know that.

I didn't know about the Brookings report coming out this summer.

I have stated before that we are all trying to figure out what to do with our health care system in this country, but I think at a minimum during this Congress, during this Congress, at a minimum, just what you stated, every pregnant women and every child in America ought to have full access to health care. And that just ought to be minimum that we come out with. Then we will go after the other parts maybe later on, but that ought to be just minimum right now.

I look forward to your Commission helping us and trying to find our way through this mine field of how to accomplish that.

Ms. ROBB. Thank you. We would like to help.

Senator HARKIN. I had a couple of questions. The only one that I really wanted to ask you about was—perhaps not so much ask you, but just have a dialog with you on. We have maternal and child health care block grants. You are familiar with those. We have community health centers.

The administration has come up with a proposal to target 10 cities in America for reducing infant mortality. And I have talked to Dr. Sullivan about it both publicly and privately. And while I am not opposed to the program of targeting cities, if they want to find out some new things or something, that's fine. I have just sort of two thoughts on that, two problems. One is that they want to take money out of maternal and child health care and out of the community health centers. Now, I have heard of robbing Peter to pay Paul, but never robbing Peter to pay Peter. That is what we are doing because these are the programs that really do reduce infant mortality.

Ms. ROBB. Yes.

Senator HARKIN. And the second thought I have is that, as you state, we do know really what works. And I am not certain. Do we need to target 10 cities to try to reinvent the wheel? I don't know. Maybe we do. I'm not that knowledgeable, and I just wonder if you have any thoughts on that at all.

Ms. **Robb**. I am completely in agreement with you about where you take the funding from. It makes no sense. Right now these clinics are struggling to keep alive. They have terrible problems. One of the problems is that you have to have clinics open when people can come. So, with cutbacks you can't keep the clinics open at night. And those women that are trying to work, those women that have children and that can't come in the middle of the day, can't come at all. We are turning our backs on them. We are closing clinics right now. And so, we are denying access to those people. Sometimes these places where they can get treatment or examinations are a long way from where they live, and transportation is a big problem. So, we want to try to not to make those barriers worse, but try to reduce those barriers. So, to close down a clinic or to eliminate or shorten the hours or cut the facilities doesn't really make good economic sense. It also shows a lack of compassion.

And the maternal and child health grants—we don't want to cut that. That doesn't make sense. It is robbing.

And it is also pitting us against each other. It is pitting all of those other rural communities, those cities against those 10, and that doesn't make sense.

Another very fundamental question that I think Congress needs to look at is the long term. I have been here telling you about some projects that work that we have operated as pilot projects in Virginia. I wish we could have Resource Mothers programs available for every woman in Virginia. We don't have the money yet. We are trying to stir it up in different ways, public and private.

But when we do those and we see that something like Resource Mothers works or one-stop shopping works or other things work, we need the commitment from the Congress and from the President to take those things that work and institutionalize them. Let's make them available because even if you determine that you are going to have those 10 projects, and even if you all of a sudden had a big pot of money and it wasn't going to take away from these projects that you and I have talked about as being needy, I think you still have to have the commitment from the Government, the people, and the public and private sector to make whatever works available to everyone. When you do those pilot projects, and you find out what works, then you need to make it available to everybody. You just can't do it in 10 places here and then say, well that was great, but we are going to do something else. There are projects that the Government has funded that have worked and we still only reach 30 or 50 percent of those in need. You and I can talk about lots of them. But that is really penny wise and pound foolish.

And if we find out that some of these things don't work, then we need to institute that and not just hold onto it because it has its own little bureaucracy now. But we really need to learn from those 10 projects or 20 projects or whatever, and that is a commitment that I think that we all have to make.

Senator **Harkin**. Very true.

Mrs. Robb, thank you very much for being here and thank you again for your leadership on this Commission.

Ms. **Robb**. Thank you very much.

Senator **Harkin**. Give my best to Governor Chiles too.

Ms. **Robb**. He is working hard on it in Florida.

### QUESTIONS SUBMITTED BY THE SUBCOMMITTEE

Senator **Harkin**. Good. There will be some additional questions which will be submitted for your response in the record.

[The following questions were not asked at the hearing, but were submitted to the Commission for response subsequent to the hearing:]

## QUESTIONS SUBMITTED BY THE SUBCOMMITTEE

### Infant Mortality in the U.S.

Mrs. Robb, as you know, the Administration has proposed a new initiative to fight infant mortality in 10 "target areas," with the goal of reducing infant mortality in these areas by 50% in five years. I'd like to discuss this proposal with you.

-- First, can you give us a sense of the infant mortality problem in the U.S. now -- is it primarily an urban problem, or do rural areas also have high infant mortality rates?

Preliminary figures just released by the National Center for Health Statistics for 1990 show that we may be making some progress in reducing infant mortality. The most recent international ranking which uses 1989 data, places the U.S. 20th among industrialized nations, with a rate of 10 deaths per 1000 live births. The 1990 preliminary data indicates a decline to 9.1.

However, it appears that this reduction has been primarily due to advances in medical care for newborns, in particular, new drugs to treat respiratory distress among premature and low birthweight newborns. Data regarding prenatal care usage and low birthweight show now improvements in either. Thus, we are still not preventing babies from being born at high risk. Preventing premature and low birthweight births must be our goal if we are to see long term improvement in our infant mortality rate.

Roughly one-quarter of Americans live in rural areas. Overall, compared to urban residents, rural residents are more likely to be poor and uninsured, two important determinants of health status in the United States. In many ways the health status of rural mothers and infants is similar to their urban counterparts, yet there are certain important differences.

0 Fetal mortality (death in utero) is higher in rural areas, compared to urban areas.

0 Infant mortality is higher in rural areas, especially for "older" infants (between one month and one year of age).

0 Maternal mortality is also higher in rural areas.

0 Rural women are less likely to receive early (first trimester) prenatal care than their urban counterparts.

One of the most significant reasons for these differences in health status between rural and urban residents is that rural families have less access to basic health care as well as specialized care. This is especially true for the poor and uninsured:

1) Travel distances to a doctor's office or clinic can be far. If transportation is a problem, a pregnant woman and/or her children may have to delay or forego care.

2) Rural residents have limited access to specialized care and related social support services -- both are more abundant in urban areas. Without ready access to this comprehensive care, the health of a pregnant woman and her developing baby, or that of a child may suffer.

3) Although rural areas have always had problems attracting physicians, new issues are making the problem worse. New concerns, such as the rising costs of malpractice insurance for obstetricians and the closure of many rural hospitals, are influencing doctors' decisions about whether to continue delivering babies or to practice in rural areas at all. Although family physicians provide the bulk of maternity services in rural America, the American Academy of Family Physicians reports that 64% of its members who had ever provided maternity care have stopped or decreased the provision of such care. The American College of Obstetricians and Gynecologists reports that 22 states (10 of which have more than half of their populations living in rural areas) have regions with no practicing obstetricians.

## Reducing Infant Mortality Rates

-- What do we know about reducing infant mortality -- what works?

-- What federal programs would the Commission suggest increasing funding for, in order to reduce infant mortality?

We know quite a bit about what works to reduce infant mortality. The strategies we need to put in place are mostly common sense and they have been tested and proven countless times.

1) Prenatal care works. Women who have had inadequate or no prenatal care are two to three times more likely to have low birthweight babies than mothers who had early and regular prenatal care. And these infants are 40 times more likely to die within just the first month of life than are infants born at normal weight. Through regular prenatal care, the health of mother and developing infant can be monitored, illnesses and other high-risk health conditions and social problems can be identified and appropriate treatment started. The Department of Health and Human Services has found that, during a woman's first prenatal visit, 80 percent of the risks for having a low birthweight baby or a high risk pregnancy can be identified and treatment can be started immediately.

2) Infants also need periodic well-baby care, meaning that they need to have a "medical home." Without this established relationship between a family and a provider, an infant may not get his or her immunizations, and a small problem, such as a cold, may grow into crisis, such as pneumonia. The infant's health may be jeopardized and dealing with such a serious illness can be very expensive.

3) If women don't get into prenatal care -- which thousands do not -- the advantages of this strategy for reducing infant mortality will do not good, of course. However, we know what works to get women into care.

- Women must be able to pay for their care and their children's care. This is the highest hurdle they have to jump over.
- Public awareness campaigns, done well, are effective to alert women to the need for care and to draw them in. These are also useful for alerting families to their potential eligibility for Medicaid, WIC, and other programs.
- Other types of outreach such as the use of trained community workers to canvas neighborhoods works to draw women into care.
- Another similar model of outreach and also of service delivery is home visiting or Resource Mothers programs. These are strongly supported by the Commission. As I indicated in my testimony, the Resource Mothers programs in Virginia are effective in reducing infant mortality, low birthweight among the babies born to mothers enrolled in the program compared with mothers not enrolled.
- One-stop shopping, that is, the integration and coordination of health, social, and community services needed by women and their infants is effective in drawing women into care and improving her health and that of her baby. It may not be easy to untangle the mess of programs, eligibility processes and application forms, but it can be done and has been in many communities throughout the country.

The Commission has recommended and continues to recommend that a number of programs receive increased funding in order to reduce infant mortality.

- The Maternal and Child Health Block Grant
  The MCH Block Grant is a cornerstone of the nation's effort to improve maternal,

infant and child health. As you recall, legislation introduced by the Commission in 1989, the Healthy Birth Act, was enacted in OBRA-89 as part of the MCH Block Grant reauthorization, but funds have not yet been appropriated. The law calls for the establishment of the types of programs I discussed above to draw women and infants into care and to integrate and coordinate the services they need. We recommend full funding for the Block Grant.

- The Community and Migrant Health Centers programs  
  These programs serve medically needy communities, and a large percentage of their patients are women and children. These centers, particularly with the recently initiated Comprehensive Perinatal Care Program, have been proven effective in reducing infant mortality and improving maternal and infant health. However, funding has not kept pace with the need.

- The National Health Service Corps  
  We are pleased that Congress increased funding for this important program last year. Because pregnant women and infants need basic, primary health care more consistently and regularly than other groups, they are at higher risk if no providers are available in a community. Thus, we hope similar support will be available in Congress this year to continue to increase the number of physicians and nurses to underserved communities.

- The WIC program  
  Although WIC is not under this Subcommittee's jurisdiction, I bring it up to emphasize its importance and proven effectiveness in improving the health of mothers, infants, and young children. We recommend that funding be increased so that the program reaches all the women and children who need nutritional supplements.

- Childhood Immunization program  
  As you know, a child begins his or her series of immunizations early in infancy. With the escalating reported cases of measles and other preventable diseases including some reported deaths, we recommend increased funding for all aspects of this program, including the vaccine stockpile and the National Vaccine Program which is charged with coordination and oversight of a national strategy for developing safer and more effective immunizations and improving the delivery of immunization services.

## To "Target" or Not

-- Does the Commission have a position about whether to "target" funds, versus taking a broader approach such as providing funds to the Maternal and Child Health block grant -- in your view, is "targeting" a good policy to pursue?

I don't think there is one correct answer to whether targeting funds to address a specific problem is or is not a good idea. If the problem is more severe in one location than another, then certainly it is a good idea to zero in on the problem.

Funds are targeted all the time. Although it is a block grant, the MCH Block Grant program clearly targets funds from both the federal and state levels.

It is my opinion that we already know how to implement many strategies for reducing infant mortality. The need to target funds, as the Healthy Start Initiative would do, to see if these very strategies work, is not the right approach. We need to institutionalize the effective strategies we already know work.

For the areas where we still have questions, targeting can work. But, as I said in my testimony, it is very important that we learn from what we do. It does no good to find out what works and then not take those lessons learned and apply them to how the federal government and others approach solving our infant mortality problem. Commitment for the long term is needed from the Congress, Federal government, states, and communities to institutionalize what works and get rid of what doesn't work.

I would like to take a moment to make an overall comment about the President's targeted Healthy Start Initiative for the Committee's consideration. The funds that Congress may appropriate for this effort are large and HHS's plans and operations for the initiative are unclear at this time. Congress may want to consider requesting that, over the course of this initiative, HHS provide documentation, reports, and other evidence of how the funds are being spent, the activities each grant recipient are pursuing, the results they are finding, and how HHS plans to incorporate the findings into their ongoing programs and overall approach to reducing infant mortality in the future.

## Implementation of the Initiative

-- If we agree that "targeting" can help, what suggestions would the Commission make to the Administration about how to go about this initiative: what steps can the federal government take to encourage coordination and cooperation, and what are the current impediments to coordination?

In our upcoming report on one-stop shopping, the Commission will address strategies that the public and private sectors can take to better coordinate services for pregnant women and infants. I will highlight a few themes here that are pertinent to the federal government.

Leadership on the part of Congress and Administration officials in program coordination is needed to demonstrate that this is a high priority. Congress should work to improve communication between committees that have jurisdiction over programs serving the same populations but often do not work to coordinate their efforts. Interagency collaborations should be a regular part of the federal policy-making process for services that target mothers and children.

The overall goal of coordinating services at any level whether federal, state, or local, should be an integrated, user-friendly service delivery system that accommodates -- rather than just tolerates -- the needs of pregnant women and children. The federal government can contribute by simplifying and linking eligibility processes for various programs, communicating the importance of coordination to the states, encouraging collaborative efforts through joint planning and funding processes, and maintaining a regular dialogue with those providing services on the front lines.

## Commission's Activities in FY92

The Commission has requested its first funding increase in the past several years.

-- If the Committee is able to provide the funds, what types of activities will the Commission undertake?

Several of our planned activities for FY 1992 are mentioned in my testimony and are discussed in the Commission's Status Report that I submitted with my testimony. As the Committee knows, the Commission receives both appropriations and private sector support. We plan to continue to advise Congress and the public about what works and what steps are needed to reduce infant mortality and to improve maternal and infant health. To accomplish this our plans include:

- Working with the Pan American Health Organization and the World Health Organization on an international health ministers meeting here in Washington, D.C. for the purpose of highlighting the many lessons that we can learn from other countries.
- Continuing to promote policy and practical strategies that lead to the goal of universal access to care for all pregnant women and infants.
- Continuing to draw attention to the importance of mothers and children through reports and other methods of communication with Congress, business leaders, the media, health professionals, and others.
- Working with the U.S. Conference of Mayors to develop city-based projects focused on raising awareness about the need for prenatal and preventive health care, reducing barriers to care and highlighting what works.
- Working with the Blue Cross and Blue Shield Association on the national public awareness campaign, "Caring for Tomorrow's Children," that the Association has developed in consultation with the Commission.
- Developing a series of roundtable meetings in cities and communities to discuss how business can further assist in addressing the concerns of maternal and child health.
- Developing a project and report on substance abuse during pregnancy and a project on maternal and child health needs in minority populations.
- Bringing together news journalists in regional seminars to help them learn about infant mortality and maternal and child health.
- Continuing our leadership efforts with the National Health/Education Consortium.

# PHYSICIAN PAYMENT REVIEW COMMISSION

## STATEMENT OF PAUL B. GINSBURG, PH.D., EXECUTIVE DIRECTOR

## ACCOMPANIED BY LAUREN LEROY, PH.D., DEPUTY DIRECTOR

### BUDGET REQUEST

Senator **Harkin**. Next we will hear from the Physician Payment Review Commission. If you will take your seats. I am going to just call a recess here for about 3 or 4 minutes, and I will be right back.

[A brief recess was taken.]

Senator **Harkin**. The subcommittee will resume its sitting.

The Physician Payment Review Commission is requesting $4.4 million for next year. That is an increase of $717,000 over last year.

I am pleased to welcome Dr. Paul Ginsburg, Executive Director of the Commission, before the subcommittee. Since its creation in 1986, the Commission has provided Congress with excellent analyses and recommendations regarding Medicare physician payment system reform and cost containment for physician services under Medicare. This is certainly an issue that lies at the heart of improving the quality of and access to health care in both rural and urban areas. I want to hear more about the Commission's activities and plans for 1992.

Dr. Ginsburg, welcome to the subcommittee. Your statement will be made a part of the record in its entirety, and if you could summarize it, I would sure appreciate it.

Dr. **Ginsburg**. Thank you, Mr. Chairman. I am pleased to come here to discuss the Commission's budget request for fiscal year 1992. Accompanying me is Dr. Lauren LeRoy, the Deputy Director of the Commission.

The Congress continues to find the Commission's work of value as it grapples with difficult health care policy issues. In OBRA 1989 it enacted a comprehensive Medicare physician payment reform that followed very closely the recommendations of the Commission.

Also in that legislation, the Commission was directed to undertake five specific studies and to prepare a second routine annual report on "Medicare Volume Performance Standards." The specific studies include Medicare payment to assistants-at-surgery, geographic payment areas under the fee schedule, payment to nonphysician practitioners, treatment of practice expense and malpractice expense under the fee schedule, and physician payment in the Medicaid Program. Four of these studies have already been completed either on or ahead of schedule with the fifth scheduled for completion by July 1. The four are included in our 1991 annual report which was summarized in testimony before the Senate Finance Committee 2 days ago. I have copies of that statement for the committee.

In OBRA 1990, the Congress substantially broadened the Commission's mandate. In addition to its role in advising on major implementation issues concerning the Medicare fee schedule and making annual recommendations on the volume performance standard, the following topics were added: physician payment in the Medicaid Program, medical malpractice reform, graduate medical education, access to services in inner-city and rural areas, utilization review and quality of care, constraining the costs of health insurance to employers, and licensure and certification of physicians.

The Commission requests $4.4 million for fiscal year 1992. This would be 16 percent higher than the 1991 level, but it is necessary for the Commission to comply with the work requirements of its expanded mandate. The additional funds would support increased staff and additional computer charges for work with new, large databases.

### PREPARED STATEMENT

The Commission has set a challenging agenda for the coming year, and I am pleased to present its plans to you and to respond to any questions you have regarding the Commission's work or its budget request.

[The statement follows:]

### STATEMENT OF PAUL B. GINSBURG

Mr. Chairman, I am pleased to come before this Committee as the Commission is nearing completion of its fifth annual report to Congress. The Commission was established in 1986 to advise Congress on reforms in the methods used to pay physicians under Medicare. Since then, its mandate has been expanded three times, first to take on the issue of controlling spending for physician services, then to carry out advisory responsibilities in monitoring and updating the Medicare Fee Schedule, and this past year to look beyond Medicare payment to issues affecting access, quality, and cost. Throughout this time, the Commission has maintained a strong record of accomplishments, providing timely information and advice to Congress and considering the views of groups affected by its work in developing its recommendations.

The Commission's activities in the past year reflected both a continuation of its work on issues related to refinement and implementation of the Medicare Fee Schedule and a turn toward work on a broader range of issues. OBRA89 set out new assignments for the ~~Commission in~~ both monitoring and updating the fee schedule and conducting studies of specific issues of concern to Congress. Last May, the Commission issued the first of what will become an annual report on setting standards for expenditure growth and updating fees. It also established an expert panel on access to advise it in commenting on the HHS Secretary's annual report on utilization, access and, quality. In addition, it has already completed four congressionally mandated studies and has one remaining study slated to be submitted to Congress in July.

In OBRA90, the Congress set out the most substantial expansion of the Commission's mandate to date. Formally added to its work plan were such topics as Medicaid physician payment, medical malpractice reform, graduate medical education, access to services in inner-city and rural areas, utilization review and quality of care, and constraining the costs of health insurance to employers. Anticipating the interest of Congress in many of these issues, the Commission already had work underway at the time the legislation was enacted. OBRA90 also formalized the role the Commission has played since 1987 in providing advice on budget options affecting Medicare physician payment.

### COMMISSION REPORTS TO CONGRESS

The Commission now has two reports due each year. OBRA89 added a report on Volume Performance Standards that is submitted to Congress shortly after the Commission's annual report. In that report, the Commission comments on the Secretary's recommendations on setting Volume Performance Standards and updating fees and presents its own recommendations and supporting analyses. The approach proposed by the Commission in this year's report, to subtract two percentage points from the Medicare Actuary's best projection of outlay growth, was adopted by Congress for the Volume Performance Standard for fiscal year 1991.

The Commission will be submitting its 1991 Annual Report to Congress at the end of March. Two days ago, we summarized its major conclusions and recommendations for the Senate Finance Committee, and I have brought copies of my testimony for members of this Committee. As you will see in that testimony, the report covers a broad range of topics that fall into three general categories. First, a substantial portion of the report is devoted to unresolved issues in the implementation of the Medicare Fee Schedule. These include refining the scale of relative work, developing resource-based methods for determining practice expense and malpractice expense, defining geographic payment areas, and calculating the conversion factor.

The report next considers a number of specific policy and technical issues concerning the fee schedule. These include payment to nonphysician practitioners (an issue about which this Committee has expressed particular concern), payment to podiatrists and optometrists, the use of time units in payment of anesthesiologists, and issues related to payment for the anesthesia care team, assistants-at-surgery, and electrocardiograms.

The final chapters of the report reflect a turning point in the Commission's work by introducing new issues contained in the OBRA90 mandate. These include physician payment under Medicaid, improving delivery of health services in rural areas, the impact of Medicare payment reform on private payers, profiling physician practice patterns, and medical malpractice reform. While I cannot go into detail on the 1991 report in this brief statement, I will be pleased to answer questions on any of the issues it contains.

## COMMISSION WORK PLAN

With the expansions in the Commission's mandate in the past two years, its work plan has grown to include both broad policy areas encompassed in the payment reform legislation and other issues that go beyond Medicare policy. While the initial work on the key elements of the Medicare Fee Schedule will be completed prior to its implementation in January 1992, the Commission expects important refinements to be made after that date. During the next year, it will continue its work to evaluate and refine additional results from the Hsiao study. It will assess new visit coding policies and develop a strategy to monitor their use. The Commission will also begin to explore the potential for establishing broader units of payment, such as bundling payment for certain tests into visits or establishing a payment for the team of physicians involved in the care of patients undergoing transplant surgery.

The Commission's work on the practice expense and malpractice expense components of the fee schedule will focus on refining the resource-based methods, assessing their implications, and developing recommendations on these policies for Congress. The Commission is also very interested in the responses of physicians to the Medicare Fee Schedule and the effects of payment reform on beneficiaries. It will analyze claims data to assess the impact of fee changes on volume of Medicare services and the effect of changes in Medicare payment on private sector outlays. It will also conduct a series of analyses and consult with its Advisory Panel on Access to assess the impact of payment reform on beneficiary access.

This coming year, the Commission will again review the HHS Secretary's recommendations on the annual Volume Performance Standard and fee update and make its own recommendations to Congress. To meet this responsibility, the Commission includes in its work plan a series of analyses to determine how to account for such factors as technology change, inappropriate utilization of services, and inadequate access to services in setting the standard. It will also assess actual expenditure patterns along with other factors that should be taken into consideration in determining annual updates in fees. The Commission plans to continue to explore options for moving from a national Volume Performance Standard to a system of subnational standards.

The Commission will have projects underway in each of the new areas included in its mandate in OBRA90. In many cases, they will build on the initial work reported in its 1991 annual report. After completing a general review of rural health care issues this year, the Commission will consider different types of payment incentives to attract and retain physicians in rural areas and examine measures to increase the availability of health care resources to rural populations. It will also begin a review of access problems in the inner city. The work the Commission is conducting on Medicaid payment policy will be an important element in any strategy to improve access to care. Using data on physician fee levels from its survey of state Medicaid programs, the Commission will analyze the relationship between Medicaid fees and utilization. It will then develop a series of payment options and assess the impact of each on utilization and expenditures.

Medical malpractice reform is also now on the Commission's agenda. The Commission has begun a broad examination of medical malpractice and will present the framework for its analysis in its 1991 report. During the next year, it will assess the merits of alternative systems to assure quality and compensate avoidable injury and will explore whether these two functions should be addressed by different systems.

The OBRA90 mandate reflects congressional concerns about measures to improve the quality and appropriateness of care. The Commission has two projects planned in this area during the next year. It will return to its earlier work on practice guidelines to assess the processes set up through the Agency for Health Care Policy and Research to set priorities for guideline development and to develop and disseminate the guidelines. It plans to hold a second conference to explore, among other things, how practice guidelines can be used by Medicare and other payers for both payment and quality assurance.

The Commission also believes that profiling of physician practice patterns has exciting potential for improving both quality assurance and utilization review. It will explore current and future uses of profiling and will develop profiles to test the use of the technique and assess its potential strengths and weaknesses.

Payment policy affects the specialty choices of physicians, and physician supply affects the number and types of services provided to patients. Recognizing these relationships, the Congress asked the Commission to examine the supply and specialty distribution of physicians and the role of Medicare in financing graduate medical education. The Commission has begun work that over the course of the next year should help to define national goals for graduate medical education and the policy options that are consistent with those goals.

## ESTIMATE FOR FISCAL YEAR 1992

The Commission requests $4.495 million for fiscal year 1992. This funding level would cover the annual costs of a staff of 26, provide the resources to support their work, cover expenses for Commission meetings, and permit funding of contracts for analyses and data development to supplement the work of the staff. This request amounts to an increase of $717,000 over the Commission's fiscal year 1991 appropriation. The increase is substantial but one that is considered necessary for the Commission to comply with the work requirements in its expanded mandate. The Commission will be adding staff, working with an expanded number of data bases, and conducting surveys and other analytic work requiring outside expertise.

Staffing, mainframe computer services, and contracts for policy analysis and data development continue to be the major elements of the Commission's annual budget. The Commission has recruited a highly trained and motivated staff that has been productive beyond what its size might suggest because of its expertise and commitment to high quality, timely work. The Commission has found from experience that maintaining its effectiveness in developing useful recommendations for Congress requires that much of its work be conducted or managed by senior professionals. It has also factored in the need in the next year for staff to develop new issue areas included in the OBRA90 expansion of its mandate.

The scope of the Commission's analytic work requiring computer and programming services has increased each year primarily for two reasons: 1) the number of data sets available from outside sources or generated by the Commission has increased and 2) a larger proportion of the Commission's analytic work has involved quantitative analyses because of the nature of the issues before it. Given the need for analytic work to support the Commission's roles in refining the fee schedule and advising on Volume Performance Standards and the expansion of data bases required to analyze new issues in the OBRA90 mandate, adequate funds for data management will continue to be a priority in the Commission's budget request.

The Commission uses outside contractors when conducting analyses internally would be more costly and time consuming, when needed data would only become available to staff under contract with outside groups, or when needed technical expertise does not exist within the staff. The Commission's more detailed appropriation justification submitted to this committee last February outlines the projects that would be conducted with the funds requested. The projects encompass specific aspects of the Commission's work on the relative value scale of the Medicare Fee Schedule, the impact of technology on volume and expenditure growth, monitoring the effects of payment reform, and Medicaid. Funds would also be used to broaden the expertise available to the Commission on malpractice reform, licensure and certification, and graduate medical education. Finally, these funds would allow preparation of expert papers for Commission conferences on profiling and practice guidelines. The Commission has set a challenging agenda for the coming year. I am pleased to present its plans to you and to respond to any questions you have regarding the Commission's work or its fiscal year 1992 budget request.

## COMPARISON OF FISCAL YEAR 1991 TO 1992 BUDGET AUTHORITY, OUTLAYS, AND FULLTIME EQUIVALENT POSITIONS

| Agency | 1991 actual | 1992 request | 1992 compared to 1991 actual |
|---|---|---|---|
| Budget authority | $3,778,000 | $4,495,000 | $717,000 |
| Outlays | NA | NA | NA |
| Full-time equivalents | 24 | 26 | 2 |
| | [1] 2 | 2 | |

[1] Equivalent of 13 Commission Members' meeting time for a 1-year period (2 FTE's).

### BIOGRAPHY OF PAUL B. GINSBURG, PH.D.

Paul Ginsburg is Executive Director of the Physician Payment Review Commission. The commission is a permanent entity of Congress, charged with advising on physician payment in the Medicare and Medicaid programs, and on several other issues. The Commission developed the physician payment reform proposal that was recently enacted by the Congress and is widely regarded as having been highly influential. Indeed Dr. Ginsburg was cited as "person of the year" in 1989 by The Washington Report on Medicine and Health.

Prior to his employment by the Commission at its inception in 1986, Dr. Ginsburg was a Senior Economist at the RAND Corporation, where he directed projects on hospital payment, physician payment employee health benefit plans, and preferred provider organizations.

From 1978 to 1984 he was Deputy Assistant Director of the Congressional Budget Office, with responsibilities for health and income security policy. He has been an associate professor at Duke University and an assistant professor at Michigan State University. His doctorate in economics is from Harvard University.

---

### BIOGRAPHY OF LAUREN LEROY

Lauren LeRoy, Ph.D. is Deputy Director of the Physician Payment Review Commission. Dr. LeRoy began her career working on health legislation in the Department of Health, Education, and Welfare in Washington, D.C. She later became the Assistant Director of the Institute for Health Policy Studies at the University of California, San Francisco and directed its Washington, D.C. office for over six years. Prior to coming to the Commission, Dr. LeRoy served as Associate Director of the Commonwealth Fund Commission on Elderly People Living Alone.

Dr. LeRoy is the author of two books analyzing issues related to physician training and practice as well as numerous articles and book chapters on issues related to the physician and nurse labor markets, health and aging, and physician payment reform.

Dr. LeRoy has served as an advisor to both public agencies and private groups on a number of health policy issues. She received her doctorate in social policy planning at the University of California, Berkeley.

### MEDICARE

Senator HARKIN. Thank you very much, Dr. Ginsburg. Last year I had a couple of instances of doctors in Iowa that just opted out of the whole Medicare system. They will not see Medicare patients because of the paperwork. I called up one of them and talked to him for a long time on the phone just to get a better handle on what was going on.

Within the last week, a whole group of doctors in the second largest city in Iowa—there was a big article in the newspaper—just opted out of the Medicare system. They are not going to take it anymore. And at the center of this is the paperwork burden, everything that they have to fill out, I guess some of the fines that are assessed or something like that if they make a mistake. And what is happening then is that the people who are on Medicare are the losers on this.

I am wondering if you are looking into this? I know this is not just isolated with my State. It has to be all over. What is happening out there? Are you looking at this?

Dr. GINSBURG. Yes; we are devoting a lot of effort to looking at this with Medicare physician payment reform, which will result in higher payments for services in some areas and lower payments for services in other areas. We think it is critical to monitor access by beneficiaries to Medicare services under these reforms.

We have convened a panel on access to advise us on this, and we have very ambitious plans for using some of the new databases such as the common working file to monitor access under the system and report to Congress about where and to what extent problems develop.

Fortunately, the Health Care Financing Administration has funded the current beneficiary survey which also will help in our efforts to monitor access. But I think it is very critical, at this time of transition to a new payment system, to do this so that we can make corrections if problems do crop up.

Senator HARKIN. Let me just understand this. Are you going to be issuing any kind of findings in this regard or statements or something like that with regard to the impact of the regulations on doctors who are providing health service to Medicare recipients and the paperwork burden and that kind of thing?

Dr. GINSBURG. Actually what we have been asked to do focuses not so much on paperwork issues, but on the effects on access of the implementation of the Medicare fee schedule, the volume performance standards, and limits on charges.

I know that paperwork is a problem. I think there are some hopeful signs, with the Health Care Financing Administration starting to grapple with some of the problems. For example, there is a demonstration project that has just been launched to publish in advance and show physicians in certain States the screens that are used to trigger review of their claims. This has a lot of potential to reduce the hassle factor for physicians. I think it is very critical in the Medicare Program that we try to make the program as hassle-free for physicians as possible because if we don't, the people for whom the program was designed won't benefit from it.

Dr. LEROY. A couple other things I can mention that speak to this issue are the Commission's consideration of electronic claims submission which facilitates the interaction between the physicians and the carriers. It gives physicians more guidance in terms of how to provide information to the carriers, and it is much easier to correct any misinformation so there is not so much back and forth and uncertainty.

The Commission also has initiated some work on profiling of physician practice patterns. We have a chapter in our report, which is due out next week, that begins to look at profiling. We think it has a lot of potential for less intrusive ways of reviewing physicians' practice patterns where you do not have to look at and question every individual claim. Again, the more that these kinds of techniques are used, the less intrusive and bothersome the system can become. So, we have a number of different projects that are looking at this from different angles.

Senator HARKIN. Second, under our physician payment system, physicians are given incentives to locate their practice in urban areas. In fact, America is the only country whose payment system gives incentives to doctors for establishing their practices in areas that have enough doctors already. Data on international health care systems indicate that doctors receive a strong psychic benefit from working in urban areas. Now, it is really hard to believe that American doctors are so different in this regard that they need monetary incentives to locate in cities.

In your opinion, do we need to offer physicians incentives to practice in cities, or how about rural areas?

Dr. GINSBURG. No; physicians certainly don't need incentives to practice in cities. Our current payment system was really never the result of a deliberate policy decision, but by being based on what physicians charge in areas, a distortion developed over time of paying too much in urban areas relative to rural areas.

I am pleased to say that the payment reform will redress some of this difference. Payment reform will base payment not on the historical charges, but payment will vary on the basis of a geographic adjustment factor that reflects differences in practice costs as best as they can be measured so that the difference in payment between urban and rural areas will shrink. Still, on average, the urban payments will be higher, but now the difference will be based on data and analysis.

Now, that is not the end of the story because the country probably should be giving additional incentives to physicians to practice in rural areas, really in both urban and rural areas where physicians are in short supply. I am pleased that Congress enacted the Medicare bonus payment for physicians in health professional shortage areas. It did that in 1987, and then it expanded the size of the bonus in 1989. This was one of the earliest recommendations of the Commission. So, at this point, the payment is 10 percent higher in health professional shortage areas.

Senator HARKIN. Dr. Ginsburg, thank you very much.

I recognize Senator Stevens.

Senator STEVENS. Thank you very much. I don't have any questions.

### QUESTIONS SUBMITTED BY THE SUBCOMMITTEE

Senator HARKIN. We have some other questions which we will submit to you in writing for your answers. Thank you very much. I appreciate it.

[The following questions were not asked at the hearing, but were submitted to the Commission for response subsequent to the hearing:]

# QUESTIONS SUBMITTED BY THE SUBCOMMITTEE

## Physician Location Choices

**Senator Harkin:** Dr. Ginsburg, I really am concerned about the way we continue to think about factors that influence doctors in their choice of where to start a practice.

I think we need to revise our current philosophy that assumes physicians simply consider costs when making decisions concerning where to locate their practices.

Under our physician payment system, physicians are given incentives to locate their practice in urban areas. In fact, America is the only country whose payment system gives incentives to doctors for establishing their practices in areas that have enough doctors already. Data on international health care systems indicates that doctors receive a strong "psychic" benefit from working in urban areas--it really is hard to believe that American doctors are so different in this regard that they need monetary incentives to locate in cities.

Doctor, in your opinion, do we need to offer physicians incentives to practice in cities?

How about in rural areas?

**Dr. Ginsburg:** [Asked and answered during hearing] No, physicians certainly don't need incentives to practice in cities. Our current payment system was really never the result of a deliberate policy decision, but by being based on what physicians charge in areas, a distortion developed over time of paying too much in urban areas relative to rural areas.

I am pleased to say, Senator Harkin, that the payment reform will redress some of this difference. Payment reform will base payment not on the historical charges, but payment will vary on the basis of a geographic adjustment factor that reflects differences in practice costs as best as they can be measured so that the difference in payment between urban and rural areas will shrink. Still, on average, the urban payments will be higher, but now the difference will be based on data and analysis.

Now, that is not the end of the story because the country probably should be giving additional incentives to physicians to practice in rural areas, really in both urban and rural areas where physicians are in short supply. I am pleased that Congress enacted the Medicare bonus payment for physicians in health professional shortage areas. It did that in 1987, and then it expanded the size of the bonus in 1989. This was one of the earliest recommendations of the Commission. So, at this point, the payment is 10 percent higher in health professional shortage areas.

## Phase-in of Physician Payment System

**Senator Harkin:** Dr. Ginsburg, the new physician payment system, which hikes fees for primary care and cuts them for various surgeries, was originally scheduled to be phased in over four years. It now seems that approximately 57% of the total shift in fees will have occurred by January 1992, due to the budget resolutions passed by Congress over the last two years.

The Administration currently favors the idea of speeding up implementation of the new physician payment system, based on assurances by the Health Care Financing Administration and Medicare contractors that they can handle the system changes immediately.

Has PPRC evaluated the relative impacts of these two proposals?

When will the Commission be able to provide an analysis of this issue to Congress?

**Dr. Ginsburg:** The Commission discussed the idea of speeding up the transition to the new payment system at its last meeting but decided not to make such a recommendation. The reasons for spreading the implementation of the payment reform over five years that led the Congress to write such a policy are still present.

The payment reform will cause large reductions in payments for certain procedures, especially in geographic areas in which prices are currently high. A transition not only gives physicians an opportunity to adjust to lower payments but is an important protection of beneficiary access. Private payers have shown substantial interest in mimicking Medicare's relative values. To the degree that they follow Medicare's lead, large differences between what Medicare pays and what others pay for a particular service will be avoided. By having a transition, private payers are given time to make changes. This will minimize differences with Medicare at any point in time and limit risks to access by Medicare beneficiaries.

While the reaction of some to the Commission's finding that more than half of the changes in payments will have been completed by 1992 has been to advocate shortening or eliminating the rest of the transition in order to reduce administrative complexity, the reaction of others has been one of alarm that the transition is progressing more rapidly than they had envisioned. In my estimation, the administrative differences are quite minor when compared to the policy differences among different speeds of transition and the latter ought to dominate decisions on the speed of the transition.

The Commission has developed extensive plans to monitor access under the Medicare Fee Schedule. If it finds that the fee schedule implementation is proceeding smoothly, it then will consider whether a recommendation to speed up the last stages of the transition is in order.

## Nonphysician Providers

**Senator Harkin:** Members of this Subcommittee have been concerned for many years about the proper Medicare fee schedule for nonphysician providers, such as nurse practitioners and physician assistants. Certainly, we know that there is a wealth of talented professionals out there providing quality primary care services to individuals; and these services are the kind of front-line preventive care we need to expand and promote.

When the Commission eliminated the adjustment factor for the opportunity costs of physician specialty training, PPRC went on record as saying that "payment should be the same when service is the same." However, the Commission's pending recommendation to discount the fee schedule payment for NonPhysician Provider services seems to directly contradict this earlier principle.

How does the Commission reconcile the decision to apply this opportunity cost discount to NonPhysician Provider with its previous position in regard to doctors?

Wouldn't this discount approach simply undermine the accepted notion that quality physician services are available from NonPhysician Providers?

**Dr. Ginsburg:** The Commission agrees that nonphysician practitioners (NPPs) provide many high quality services to patients. In conducting its work to determine equitable payments for NPPs, the Commission looked for evidence that would establish that the services provided by NPPs are the same as those provided by physicians. Such evidence does not exist. Given the substantial differences in the content and length of training of NPPs and physicians, the Commission was reluctant to assume, in the absence of sound evidence, that services billed under the same billing code by both groups of professionals are the same.

In its 1989 report to Congress, the Commission recommended that payment for the same service, when provided by physicians, be the same. This reflected the fact that the core of training that physicians have in common which prepares them to provide many of the same services, is substantial and that the specialized training beyond this core was already reflected in the case mix of different specialists and the measures of work for more specialized services. Given differences in the content of training between NPPs and physicians, the Commission concluded that a method that accounts for differences in investment in human capital to determine differential payments was consistent with the Commission principles for establishing equitable payments. Continuing current policy for payment to NPPs while providing a more rational basis for determining differential payments should not undermine patient acceptance of or access to NPP services.

## Malpractice Issues

**Senator Harkin:** I recently saw an article by experts working on the Robert Woods Johnson (RWJ) Foundation tort reform study in Princeton, New Jersey, concerning the tinkering that has been done to the nation's medical malpractice system. Their claim is that, although these incremental changes have succeeded in decreasing premiums, the system still functions unfairly for both patients and doctors. These experts also state that some of the changes may have even created new problems.

Do you have any comment on the Johnson proposal for no-fault medical malpractice compensation based on insurance settlements?

What work does the Commission plan to do in this area during the coming year?

**Dr. Ginsburg:** The Commission commented briefly on tort reform in the chapter on malpractice in its 1991 Report to Congress. It concluded that tort reform has not addressed many of the important problems of the malpractice system. To the extent that tort reform reduces the likelihood of a valid claim being successful or the size of damage awards, tort reform runs directly counter to the interests of negligently injured patients. It also does little to benefit physicians except to moderate insurance premium increases. The Commission has not yet had the opportunity to review the study of tort reform in Indiana that was funded by the RWJ Foundation, but it seems entirely consistent with the conclusions in the Commission's 1991 Report. The Indiana researchers will be sending the Commission a draft of their report later this month.

The Robert Wood Johnson Foundation has funded an extensive research program designed to provide good evidence on which to base malpractice reform. The Foundation has supported studies of the effects of previous tort reforms, how to reduce medical injuries, alternatives to the tort system, and other topics. It contributed to the Harvard Medical Practice Study of medical injury and negligence in New York State. The Johnson Foundation itself, however, has not proposed any reforms or alternative systems for compensating medical malpractice. The Harvard researchers have developed a proposal for a no-fault system, which they plan to publish in the New England Journal of Medicine later this year. This is probably the proposal to which you refer.

The Commission is presently undertaking a detailed analysis of the Harvard proposal, as well as other major proposals for reform. This work is part of the Commission's two-year work plan to address the issue of malpractice reform. Chapter 19 of its 1991 Report to Congress represents the completion of the first part of this work plan. This includes a definition of the malpractice problem and the Commission's approach to it, a description of a set of possible goals a malpractice system may try to achieve, and an evaluation of the current malpractice system in light of these goals. The second part of the work plan is to evaluate proposed reforms, explore the federal government's role in malpractice reform, and make recommendations. The results of this work will be published in the Commission's 1992 Report to Congress. The work is not yet far enough along to allow the Commission to comment on the Harvard proposal at this time.

## Geographic Adjustment Factor

**Senator Harkin:** The overall structure of the current Medicare Geographic Adjustment Factors (GAF) was laid out in the Budget Act of 1989. However, the Omnibus Budget Reconciliation Act (OBRA) of 1990 directs the Secretary of HHS to complete a validation study, in order to determine the accuracy of the GAF price inputs and any systematic variation in the quantities of these inputs.

What work has the Commission completed in assessing the current structure of the GAF?

In light of recent studies by Medical Economics and the AMA demonstrating that certain prices should be weighted to reflect urban-rural differences, will the Commission be re-examining this issue as it relates to implementation of the GAF?

**Dr. Ginsburg:** The question about the structure of the GAF appears to address the appropriateness of both the type of index and actual measures used, both of which are analyzed extensively in our 1991 report to Congress. With regard to the type of index, the Commission has concluded that an input price index is appropriate for adjusting a resource-based fee schedule. Many have supported an expenditure index, based on data about actual physician expenditures. In addition to the tremendous data collection effort that such an index would require, an expenditure index is not consistent with the intent and structure of the resource-based fee schedule.

The Commission has studied the measures used by HCFA in the GAF and has concluded that they are the best alternatives available. The issue of urban/rural price differences as captured by several of the measures was studied extensively, and no biases were found in the measures used. However, the Commission has recommended that the Congress expand the data collection and reporting responsibilities of a federal agency to include a measure of commercial rents across the nation. The HUD apartment rents used in the GAF appear to be the best option available and lead to relative prices that are similar to those suggested by two alternative sources. This is, however, the weakest measure used in the GAF.

The second question reflects the concern that has been raised about the variation in revenue shares between urban and rural practitioners. Data show that urban and rural practitioners spend different shares of revenues on net income, practice expenses and malpractice expenses. This may be due in large part to the difference in services provided by practitioners in the different settings. Under OBRA89, the geographic adjustment of the fee schedule will be done by service, with the three price indexes combined to reflect the work, practice expense, and malpractice expense relative value shares for each service. Therefore, the price measures are combined in the same proportions as the relative values. The net income, practice expense, and malpractice expense revenue shares for an area will therefore reflect the relative work, practice expense and malpractice expense components of the services provided in the area as well as the geographic adjustment of those components. The Commission has concluded that this will probably lead to a geographic pattern of payments that accurately reflects local revenue shares, compared with a single geographic factor created from fixed shares. There is some reason to suspect that the current geographic pattern of revenue shares is somewhat affected by current payment policies and so should not be viewed as an infallible benchmark.

## Expanded Activities under OBRA 1990

**Senator Harkin:** Dr. Ginsburg, in addition to its original work on Medicare physician payment reform, the Commission's agenda was broadened in 1988 to include a review of how best to slow the growth in expenditures for physician services. The Omnibus Budget Reconciliation Act of 1990 broadens the Commission's scope yet again to cover such issues as graduate medical education costs, the effectiveness of peer review procedures, options for controlling the cost of health insurance to employers, and malpractice liability reform.

That sounds like a pretty significant expansion in the Commission's annual workload. Yet, you are requesting only two additional full-time positions in 1992, and the remainder of your increase is concentrated in rent, utilities and communications costs.

Dr. Ginsburg, do you believe you will have sufficient resources to fulfill the Commission's mandate in 1992?

**Dr. Ginsburg:** OBRA90 did include a substantial expansion in the Commission's mandate that both builds on our previous work and introduces new issues. We have asked for a budget that we think is adequate given the work plan we have set out for the coming year. We are requesting funds for only two additional staff, because the statutory ceiling on the number of Commission staff positions (26) allows us to recruit only two more individuals. We intend to add a physician and one other senior professional in order to maximize the capability of new staff to take on some of the new issues in the Commission's mandate. The other budget category in which we are requesting a significant increase is Communications, Utilities and Other Rent. Included in this category are funds for mainframe computer and programming services which would increase by 65 percent (from $545,000 to $900,000) under our budget request. This is a direct reflection of the expansion in data base development and quantitative analysis that will be required under the Commission's broadened mandate. A modest increase in funds for outside contracts will also help to extend and support the work that can be conducted directly by Commission staff.

# CORPORATION FOR PUBLIC BROADCASTING

STATEMENTS OF:

MARSHALL C. TURNER, JR., CHAIRMAN OF THE BOARD OF DIRECTORS

DONALD E. LEDWIG, PRESIDENT AND CHIEF EXECUTIVE OFFICER

ACCOMPANIED BY FREDERICK De MARCO, SENIOR VICE PRESIDENT, STATION RELATIONS AND TREASURER

## BUDGET REQUEST

Senator **Harkin**. Now we will hear from the Corporation for Public Broadcasting. I would like to welcome the President and Chief Executive Officer, Donald Ledwig, as well as Marshall Turner, Chairman of CPB's Board of Directors.

The Corporation for Public Broadcasting is the primary vehicle for providing Federal financial assistance to the radio and television stations which currently compose the noncommercial broadcasting system.

CPB is forward funded for 2 years. For fiscal year 1994, CPB is requesting $279 million for its Public Broadcasting Fund, a 10-percent increase. The President's request is $260 million, or 2.6 percent over the prior year.

In addition, CPB is requesting $76 million for a new unauthorized public telecommunications-for-education fund.

Mr. Ledwig, welcome again to the subcommittee. I recognize Mr. Turner. If you would introduce Mr. DeMarco and his position. We will put your statement in full in the record, and please summarize it if you will.

## INTRODUCTION OF ASSOCIATES

Mr. **Turner**. Thank you, Mr. Chairman, members of the subcommittee.

My name is Marshall Turner. I am Chairman of the Board of Directors of the Corporation for Public Broadcasting, or CPB. I am accompanied today by Mr. Donald Ledwig, President and Chief Executive Officer, and by Mr. Frederick De Marco, Senior Vice President, Station Relations and Treasurer of CPB.

I welcome this opportunity to appear before you today for two main reasons: to record my support for the Corporation's request for an appropriation of $279 million for fiscal year 1994 for general appropriations and to testify in support of the Corporation's request for an appropriation of $76 million for the new public telecommunications-for-education fund. This fund would be used exclusively to create and deliver new educational programming and services to all Americans.

Before I continue, I wish to thank the subcommittee for its unwavering support and enthusiasm for public broadcasting for the last 24 years.

Mr. Chairman, we at the Corporation are well aware that within the jurisdiction of this subcommittee alone there are scores of programs that help people meet one of life's basic necessities, quality health care, as well as other important social needs such as raising educational standards and providing safer working environments for America's work force. When it comes to choosing among worthy programs, CPB appreciates the hard choices that this subcommittee makes each year and particularly this year.

During the last 24 years, you have helped create and build an outstanding system of public radio and television stations and many of the outstanding programs we air. Public broadcasting is broadly supported and heavily used by viewers and listeners today. Public broadcasting strives to give Americans the opportunity to see or hear educational, cultural, and public affairs programs of the highest quality and almost always succeeds.

## EDUCATIONAL POTENTIAL OF PUBLIC BROADCASTING

But there is one glaring opportunity where the infrastructure that is public broadcasting is greatly underutilized in relation to its potential to help address a critical national need, education. Our country faces no greater challenges than improving education and upgrading our work force. Our ability to solve other problems will require the success at these too. CPB firmly believes that public broadcasting is positioned to contribute much more to solving these serious problems than it has in the past.

We are certain that one way to maximize the value of our programming and services is by extending their impact through outreach activities and conversion of programs to educational materials. For example, what made "The Civil War" such a magnificent achievement was not just its ability to rivet the Nation's attention over a 5-night period last fall. The more compelling value is in its use now as a television course by schools, colleges, universities, people in their work forces, people in many locations where they happen to be.

What makes public broadcasting's education, information and outreach programming so effective is not the broadcast of a single program or series during the year. It is the rippling effect of those programs to touch human lives, to involve citizens at the local level in finding local solutions to national problems. Recognizing the potential to maximize the level of service public broadcasting provides, CPB, with strong support from the public broadcasting system, began to examine the possibilities for redirecting and expanding public broadcasting's capacity and ability to improve educational services.

Using this input and with the help of several key public broadcasting organizations and stations, CPB has designed a multiyear plan to expand significantly the role of public broadcasting in developing and delivering new educational programs and services. The plan utilizes public broadcasting's accumulated experience and infrastructure as a foundation from which public broadcasting will be able to make a significant, cost-effective contribution to American education in the 1990's.

Emphasis within the plan has been placed on instructional and motivational materials for use by preschool children and day-care providers, improving student and teacher skills in math and science, using all appropriate technologies, and a comprehensive effort to make Americans aware of and to encourage their participation in solving local and national education problems.

With adequate resources, public broadcasting can use its telecommunications capabilities in cooperation with business and education to help reverse the downward trend in academic achievement and reinvigorate America's education system. In short, public broadcasting can quickly reach through geographic and institutional barriers to provide inexpensive access to educational programming in schools and work places, as well as homes and automobiles. For this effort to be successful, Federal support for the public telecommunications-for-education fund is crucial.

### NEED FOR FULL APPROPRIATIONS FOR CPB'S GENERAL OPERATIONS

Critical to the initiative's success, however, is a system that is financially sound and technically capable of producing the programming and services outlined in this initiative. Thus, Federal support for the education initiative can only be effective if your continued investment in general operations is assured.

Mr. Chairman, public broadcasting is a highly developed nationwide telecommunications system. It brings together ideas, producers, technology, funds, and audiences. CPB will continue to seek and support the production of significant new programming for radio and television. We want to expand the reach of the public radio broadcast signal so that it is available to as many Americans as possible.

In television during prime time and for general audiences, we want to see more children's educational programming and complete our current effort to develop a high quality alternative children's weekend block. We will expand our educational programming directed toward parents, young adults, people entering the work force and people new to America.

But our most significant contribution will be to educate Americans in the broadest sense. Whether through formal course work or through educational programs and services, CPB and all of public broadcasting stand ready to be of service to provide a cost-effective, nonduplicative delivery system.

The challenges are many, but so too are the rewards in improving the quality of life and education for all of our citizens. That, Mr. Chairman and members of the subcommittee, is a worthy goal toward which I promise you the best and unstinting efforts of CPB and its colleagues throughout public broadcasting.

### PREPARED STATEMENT

Following Mr. Ledwig's summary of his testimony, I will be pleased to answer any questions you may have. And thank you again for the opportunity to speak before you today, and most importantly, thank you for your support of public broadcasting.

Senator **Harkin**. Mr. Turner, thank you very much for a very eloquent and very fine statement.

[The statement follows:]

# STATEMENT OF MARSHALL C. TURNER, JR.

## INTRODUCTION

Mr. Chairman, Senator Specter, Members of the subcommittee...

My name is Marshall C. Turner. I am Chairman of the Board of Directors of the Corporation for Public Broadcasting (CPB).

I am accompanied today by Mr. Donald E. Ledwig, President and Chief Executive Officer, and Mr. Frederick DeMarco, Senior Vice President, Station Relations and Treasurer of CPB.

I welcome this opportunity to appear before you today for two main reasons: to record my support for the Corporation's request for an appropriation of $279 million for fiscal year 1994 for general operations; and to testify in support of the Corporation's request for an appropriation of $76 million for the new Public Telecommunications-for-Education Fund. This fund would be used exclusively to create and deliver educational programming and services to all Americans.

But, before addressing these two issues, I wish to thank this subcommittee for its unwavering support and enthusiasm for public broadcasting for the past 24 years.

Also, inasmuch as this is my first appearance before you as Chairman of the CPB Board of Directors, I would like to note that my biography is attached to my prepared testimony.

Mr. Chairman, CPB is well aware that within the jurisdiction of this subcommittee alone, there are scores of programs that help people meet one of life's basic necessities, quality health care, as well as other important social needs such as raising educational standards and providing safer working environments for America's workforce. When it comes to choosing among worthy programs, CPB appreciates the hard choices that this subcommittee makes each year, and particularly this year.

Any activity receiving federal funds must strive to return the best possible value for each dollar spent. Each program should evaluate periodically its activities and capabilities in relation to its mission, and shift resources as success is achieved on some goals, and as new opportunities arise to more effectively use the program's capabilities.

During the last 24 years, you have helped create and build an outstanding system of public radio and television stations, and many of the outstanding programs we air. Public broadcasting is broadly supported and heavily used by viewers and listeners today. Public broadcasting strives to give Americans the opportunity to see or hear educational, cultural, and public affairs programs of the highest quality -- and almost always succeeds.

But there is one glaring opportunity where the infrastructure that is public broadcasting is greatly underutilized in relation to its potential to help address a critical national need. Today, a confluence of influences -- new technological capabilities, expanded capacity of public broadcasting's communication capabilties, the maturity and community relationships of public broadcasting stations, and emerging national concensus regarding the more effective goals for education -- offer us an opportunity to tap our underutilized potential to improve the education of Americans of all ages.

## CPB'S PROPOSAL FOR A SEPARATE EDUCATION FUND

Our country faces no greater challenges than improving education and upgrading our workforce. Our ability to solve other problems will require the success of these two. CPB believes firmly that public broadcasting is positioned to contribute more to solving these serious problems than it has in the past.

Certainly, public broadcasting has proven to be an enormously wise investment for our youth and their education. We know that the average child spends more time watching television than being instructed in school each week. ***Educators maintain that the children who view our programs are prepared better academically than those who do not.*** But this is only a start. Public broadcasting has asked the question, "How can we better utilize the potential benefits of television and radio?" Our answer has several components.

CPB is certain that one way is to maximize the value of our programming and services by extending their impact through outreach activities and conversion to educational materials. For example, what made *The Civil War* such a magnificent achievement was not just its ability to rivet the nation's attention over a five-night broadcast period. The more compelling value is in its use now as a television course by schools, colleges, and universities in dozens of states. Major funding was provided by CPB for the initial development of the program and more recently, for the accompanying course materials. In the near future, CPB's investment in the development of an interactive videodisc will enable students to key into the epic production by, in effect, accessing the "pages" of this video text in the same manner that yesterday's students flipped through a history textbook.

What makes public broadcasting's education, information, and outreach programming so effective is not the broadcast of a single program or series during the year. It is the rippling effect of those programs to touch human lives, to involve citizens at the local level in finding local solutions to national problems. For example, in 1990, *Race to Save the Planet*, an environmental awareness program funded by the Corporation and the Annenberg/CPB Project, had an impact that long outlived the original broadcast. Approximately 100,000 churches received materials to share with their patrons and congregations; 12,000 public libraries received activity guides, posters, and bibliographies; and community groups ranging from the American Association of Retired Persons to the National 4H Program distributed information to members with encouragement to organize discussion programs around the series.

The value of a history series such as *The American Experience* is not only that it is viewed regularly by millions of people each week, but that it encourages educators to use alternative methods of teaching to bring the past vividly to life. By early January 1991, over 3,500 teachers had used the series in schools, with an estimated 254,000 students benefiting from the materials. In addition, students in Maryland, Idaho, and Kentucky, enthused by the series, went out into their local neighborhoods and talked with older peopel to learn the history of their communities. In fact, students in Washington County, Kentucky, went so far as to write the history of their community down as a result of those talks. All this was triggered by the use of *The American Experience* in the classroom.

Recognizing the potential to maximize the level of service public broadcasting provides, CPB, with strong support from the public broadcasting system, began to examine the possibilities for redirecting and expanding public broadcasting's capacity and ability to improve education services. CPB is pursuing ways to develop programming and delivery mechanisms that combine the substantial experience and capacity of public broadcasting with that of the business and education communities. This effort links the need of American businesses to have a competitive, well-educated workforce with the ability of public telecommunications to develop and deliver high-quality, low-cost education programming to students anywhere in the United States.

Using this input, and with the help of several key public broadcasting organizations and stations, CPB has designed a multi-year plan to expand significantly the role of public broadcasting in developing and delivering new educational programs and services. The plan utilizes public broadcasting's accumulated experience and infrastructure as a foundation from which public broadcasting will be able to make a significant, cost-effective contribution to American education in the 1990s, and which focuses on the following goals, initially emphasizing the first three:

- developing a comprehensive package of instructional and motivational materials for use by pre-school children while in the care of day care providers and at home;
- developing a collection of instructional services aimed at improving student and teacher skills in math and science using all appropriate technologies;
- developing and maintaining a comprehensive effort to make Americans aware of, and to encourage their participation in solving, local and national education problems, including encouraging their commitment to develop and sustain high-quality, drug-free school systems in their communities;
- leveraging all existing technologies, and new ones as they are proven effective, to assure that state-of-the-art tools are being used to address critical education issues;
- developing programming that supports a kindergarten to grade 12 curriculum (i.e., K-12) that will utilize the most advanced instructional models available, including emerging applications of technology to instructional programming such as videodisc to ensure the highest possible return on investment;
- producing programming which educates and informs the American people about issues affecting them and their world and prepares them to be better citizens;
- developing comprehensive, in-service training for teachers to ensure that they bring the most current information in their field into the classroom regardless of their schools' financial resources or geographic location;
- developing a universally available literacy program that guarantees free, accessible literacy training for any American who wants it; and,

- using public telecommunications resources to develop and deliver job skills retraining to ensure that America's labor force has the resources to learn new skills to compete in today's international labor market.

With adequate resources, public broadcasting can use its communications capabilities in cooperation with business and education to help reverse the downward trend in academic achievement and reinvigorate America's education system. In short, public broadcasting can quickly reach through geographic and institutional barriers to provide inexpensive access to educational programming in schools and workplaces, as well as homes and automobiles. However, for this effort to be successful, *federal support for the Public Telecommunications-For-Education Fund is crucial.*

## THE CONTINUED NEED FOR A STRONG INVESTMENT IN GENERAL SUPPORT

*Critical to the initiative's success, however, is a system that is financially sound and technically capable of producing the programming and services outlined in this initiative. Thus, federal support for the education initiative can be effective only if your continued investment in general operations is assured.*

We use the word "investment" because the commitment of public funds to public broadcasting provides a much greater return in terms of benefit to the public good for each dollar spent. Public broadcasting is a partnership between the federal government and local public service entities that bring many more dollars to the partnership than the federal government provides.

### CPB Identifies, Develops, and Supports Unparalleled Programming

The core of public broadcasting's service is its hallmark television and radio programs which are widely received. The "product" of public broadcasting is the effect that these programs have on their viewers -- the knowledge they gain, the imagination that is stimulated, and the new possibilities they encounter and consider.

Today, the most important task of CPB is to ensure the production of excellent educational, cultural, and public affairs programs. Our differentiation from other sources of programming lies in the level of excellence we obtain, and also in the uniqueness of our subject matter. Long recognized for its unsurpassed quality, the *programming provided by public broadcasting remains unobtainable on any consistent basis commercially.* This programming includes: stirring documentaries about our heritage (*The Civil War* and *Eyes on the Prize I and II*); in-depth and incisive news (public television's *The MacNeil/Lehrer NewsHour* and public radio's *All Things Considered* and *Morning Edition*); children's programming that continues to enjoy the trust of millions of parents (*Sesame Street, DeGrassi High, Reading Rainbow,* and *Mr. Rogers' Neighborhood*); and programming that successfully utilizes the full educational potential of television (*Square One TV* and *3-2-1 Contact*). While all public broadcasting is commercial-free, this unique aspect is especially beneficial to our young viewers who can concentrate and learn without being interrupted by thousands of commercials every year.

In public radio programming, CPB supports a wide range of projects including *Marketplace* , a daily magazine-style program of international business, finance, and the economy that relates the impact of international commerce on listeners' lives; *Images of the 20th Century*, an 18-month research and development project about 20th century American history intended to present audio essays on cross-generational and multicultural perspectives of U.S. politics, economics, technology, and culture; and *Western Horizons*, a series on the people of the rural regions of the nation's Mountain West whose lives are shaped by the vast territory in which they work and live.

Just recently, when CPB recognized that stations were hard-pressed financially to support National Public Radio's (NPR) round-the-clock war coverage, the Corporation provided NPR with substantial funding to continue expanded coverage of the Persian Gulf War. During the hostilities, NPR was hailed as the "CNN of radio" because of its exhaustive reporting on the war. NPR's nationally acclaimed coverage included town meetings, overnight newcasts, and call-in shows, and caused an increase in programming from 18 to 24 hours daily, thereby pushing it one-third over its monthly budget.

In addition, ***public broadcasting brings the theater, opera, and drama to inner-cities and rural*** **communities**, in many cases to people who would otherwise be unable to experience them. More people saw the opera, *The Ring Cycle*, in one broadcast on public television than had ever seen it, in total, since Wagner wrote it. We ***sensitize public awareness of major social concerns*** with programming covering such critical issues as childcare, literacy, AIDS, and the environment. More important, public telecommunications is an investment because it yields a hefty return-to-the-public in the form of its strengths: educational services, local and national service, and diverse programming that reflects the entire fabric of America's racial, ethnic, and cultural heritage.

CPB assists public radio and television stations to respond to their local needs by providing nearly two-thirds of its federal appropriation through Community Service Grants, which go directly to local stations and enable stations to acquire or produce programming. With CPB funds known ahead of time because of the Corporation's advance appropriations, stations can build budgets that attract additional local funding to support programming in tune with the needs and concerns of their communities, thus allowing a greater return on the federal investment.

## PUBLIC BROADCASTING IS A TRULY NATIONAL SERVICE

It is important to note that public broadcasting yields more than programmatic and educational returns. CPB appropriations also enable us to help develop such technologies as the use of closed-captioning for the hearing-impaired; spur the development of the Descriptive Video Service

(DVS), which allows the sight-impaired to experience the wonders of television by providing actual narrative description; and promote the linkage of video programming with computer programming, thus bringing us even closer to our goal of serving all audiences.

In 1990, Congress approved the final installment for replacement of the satellite interconnection system. This second generation satellite interconnection system will be active well into the next century, creating a new "telecommunications highway" that will multiply vastly the ways we can use public telecommunications throughout the United States. Its existence makes the educational objectives of the separate education fund possible to achieve.

## CONCLUSION

Mr. Chairman, public broadcasting is a highly developed nationwide telecommunications system. It brings together ideas, producers, technology, funds, and audiences. CPB will continue to seek and support the production of significant new programming for radio and television. In radio, we will sustain an admirable record of providing news and public affairs, arts, and performance programming. We want to expand the reach of the public radio broadcast signal so that it is available to as many Americans as possible.

In television, during primetime and for general audiences, we want to see more children's educational programming like *Square One TV* and *WonderWorks*, and complete our current effort to develop a high quality alternative children's weekend block. We will expand our educational programming directed toward parents, young adults, people entering the workforce, and people new to America. Further, we will support additional in-depth news and public affairs programming like *The MacNeil/Lehrer NewsHour*; cultural programming that celebrates the diversity of the American people such as *American Masters*; and historical documentaries such as *The American Experience* and *The Civil War*.

But our most significant contribution will be to educate Americans in the broadest sense. Whether through formal coursework, or through educational programs and services, CPB and all of public broadcasting stand ready to be of service to provide a cost-efficient, non-duplicative delivery system.

The challenges are many. But, so, too, are the rewards in improving the quality of life and education for all of our citizens. That, Mr. Chairman and Members of the subcommittee, is a worthy goal toward which I promise you the best and unstinting efforts of CPB and its colleagues throughout public broadcasting.

Following Mr. Ledwig's summary of his testimony, I shall be pleased to answer whatever questions you may have.

Thank you again for this opportunity to speak before you today, but most importantly, thank you for your support of public broadcasting.

## BIOGRAPHY OF MARSHALL C. TURNER, JR.

Marshall Turner, former chairman of the board of public stations KQED/KQEC-TV/FM, San Francisco, and a venture capitalist, brings an unusual blend of public station experience and business knowledge to the Corporation for Public Broadcasting (CPB), the primary organization charged with the growth and development of public radio and television in the United States.

Turner's top priorities for public broadcasting are enhancing the flow of quality programs to viewers; developing CPB's policy leadership contribution; and further building public broadcasting's broad contribution to education, the system's historical root.

Turner was appointed to the CPB Board in June 1987, and elected chairman in September 1990. His term will expire in March 1992. Turner is chairman of the board's Mission and Goals Committee.

Turner is a general partner of Taylor & Turner Associates, Ltd., a San Francisco-based firm he cofounded that manages several venture capital investment partnerships that help form and invest in new technology-related companies during their early development. The firm's capital comes from a small group of individuals, corporations, and corporate pension funds. Taylor & Turner has current investments in 12 young firms, including biotechnology, communications, software, semiconductor, and computer systems companies. Turner is a director of several of these companies.

He was a member of the board of directors of KQED, Inc., one of public broadcasting's largest outlets, for 10 years and was its chairman for two years in 1986 and 1987.

Turner was president and chairman of Liquid Crystal Technology, Inc., a manufacturer of specialized consumer and medical products, from 1975 to 1980. He was the venture capital associate with Crocker Associates and chief operating officer of the Sierra Railroad from 1973 to 1975. A founding employee of the U.S. Environmental Protection Agency, he directed a policy coordination staff in the administrator's office from 1971 to 1973. He was a White House Fellow serving as special assistant to Elliot Richardson, Secretary of Health, Education and Welfare (HEW), 1970-1971; a commissioned officer in the U.S. Public Health Service performing medical engineering research at the National Institutes of Health (NIH), 1966-1968; a research engineer in auto safety for GM Defense Research Labs, 1965-1966; and an industrial designer for Mattel, Inc., in 1965.

At NIH, he codesigned a new implantable heart assist pump that won international recognition in the scientific and general press, and he collaborated in a series of 29 surgical implants of the pump in calves. He authored several articles about this work in medical and engineering publications.

His long-term interest in education has included service as an elected trustee and chairman of his local school district during a period of extensive management and curriculum renewal.

Turner received his B.S.M.E. and M.S.M.E. degrees from Stanford and an M.B.A. degree from Harvard.

Born in Santa Monica, Calif., in 1941, Turner lives near San Francisco, Calif., with his wife Ann Curran Turner, an artist. They have three children.

## SUMMARY STATEMENT OF DONALD E. LEDWIG

Senator HARKIN. Mr. Ledwig.

Mr. LEDWIG. Thank you, Mr. Chairman. I want to thank you for this opportunity to testify in support of the Corporation's fiscal year 1994 appropriations request of $279 million for CPB's general operations and an additional $76 million to establish a new public telecommunications-for-education fund.

I also wish to take this opportunity to express the Corporation's deepest appreciation for the strong support of this subcommittee which has been provided to public broadcasting through CPB and to you, Mr. Chairman, for your personal leadership on behalf of the public service that we offer to the Nation.

As Chairman Turner stated, we are sensitive to the financial realities within which this subcommittee must operate. However, Mr. Chairman, in public broadcasting I believe you have one of the most universal, cost-effective means to inform, educate, assist, and develop solutions to national and local problems.

In fiscal year 1994, Federal support for CPB's general operations will equal approximately 36 cents a month for a family of four, thus making it penny-for-penny an increasingly frugal investment of taxpayer dollars.

Federal support for public broadcasting results in a variety of benefits, such as high quality programming, educational services, the expansion of public radio to unserved areas of America, the development of new technology, such as closed captioning for the hearing impaired, and descriptive video for the sight impaired, and the promotion of new technologies to ensure that the public broadcasting's radio and television signal is available to as many Americans as possible in the latest formats and by the latest delivery means.

## COMMUNITY OUTREACH EFFORTS

One of the most exciting features of public broadcasting is our community outreach efforts to involve and inform viewers on important social issues at the local level. The Public Television Outreach Alliance, which CPB helped create and continues to fund, has focused attention and generated community action on such issues as Project Literacy U.S., or PLUS, drug and alcohol abuse, the critical need for child care, AIDS prevention, and the environment.

A single program accompanied by the local efforts of hundreds of public radio and television stations can attract thousands of individual volunteers. Programs that motivate citizens to participate in solving problems locally create a snowballing effect that can generate a local solution to a national problem. No Federal agency can address the problem of illiteracy faster or more effectively than neighbors teaching neighbors to read. No antidrug program can keep children away from drugs better than parents helping other parents understand and defend their neighborhoods against drugs. And the most cost-effective way to deal with the AIDS epidemic is to prevent its spread through education. Similarly, public television's prenatal care programs help preclude the very problems Mrs. Robb just identified in her testimony earlier this afternoon.

Today, as a result of these efforts to address national problems at both the national and local level, 500 literacy task forces and 200 mentoring task forces fighting illiteracy and more than 8,000 chemical people task forces fighting drug abuse are in existence in the United States and active throughout the country.

Mr. Chairman, CPB's request will fund a multitude of programs and services, but three in particular. First is the creation of the public telecommunications-for-education fund. This initiative represents the first large-scale national application of public telecommunications to help solve educational problems by using the existing local and State infrastructure, both educational and public telecommunications, to focus on the educational needs of local communities.

Second, full funding of the Corporation's general operations will ease the strain on CPB's and public broadcasting's ability to continue to offer the type of signature programming that is necessary to sustain individual donor and corporate underwriting and support. Technological advances and competitive pressures continue to result in an infusion of billions of dollars on the commercial side causing the expenditure by public broadcasting proportionally more for program production as competition for those resources increases.

Third, our request for funds for general operations will allow for the inflation-adjusted support of local public television and radio stations through our community service grant program, including the continued expansion of public radio. Full implementation of public radio expansion, without placing existing radio stations at risk, will not be possible without the level of general support we have requested.

Mr. Chairman, CPB and public broadcasting is proud of our past achievements and confident that we are positioned to redouble our commitment to the Nation's educational efforts and to the resolution of its pressing social problems. The Corporation believes, however, that these dividends can be realized only with the public's full commitment, one that allows CPB and public broadcasting to unleash our full potential to address the challenges ahead. To do so will require the continued support of Congress on behalf of the public to provide sustained and adequate funding.

For these reasons, Mr. Chairman, CPB requests an appropriation of $279 million for the Corporation's general operations for fiscal year 1994 and an additional $76 million for the public telecommunications-for-education fund.

### PREPARED STATEMENT

In the past, the Congress has taken the lead and the risk by appropriating funds to CPB in response to our request on behalf of the millions of viewers and listeners who each week enjoy and benefit from the multitude of programs and services provided by public broadcasting. I do not believe we have ever failed to deliver more than we have promised. I assure you that we will do our best to continue that record.

Thank you, Mr. Chairman.

[The statement follows:]

# STATEMENT OF DONALD E. LEDWIG

## INTRODUCTION

Mr. Chairman, Members of the subcommittee, as President and Chief Executive Officer of the Corporation for Public Broadcasting (CPB),[1] I want to thank you for this opportunity to testify in support of the Corporation's fiscal year 1994 appropriations request of $279 million for CPB's general operations and an additional $76 million to establish a new Public Telecommunications-For- Education Fund.

I also wish to take this opportunity to express the Corporation's deepest appreciation for the strong support this subcommittee has provided to CPB and public broadcasting, and to you, Mr. Chairman, for your personal leadership on behalf of the public service we offer to the nation.

As Chairman Turner stated, we are sensitive to the realities within which this subcommittee must function. He has described the value of our programming and the goals of the education initiative. I would like to address the general operations of the Corporation, many of which are the foundation for new initiatives such as our education initiative.

## THE BENEFITS OF THE FEDERAL CONTRIBUTION

Mr. Chairman, in public broadcasting, you have one of the most universal, cost-effective means to inform, educate, assist, and develop solutions to national and local issues. In fiscal year 1994, based on our request, federal support for ***CPB general operations will equal approximately 36-cents a month for a family of four,*** thus making it penny-for-penny an increasingly wise investment.

Federal support for public broadcasting results in a variety of benefits, such as:

*High Quality Programming:*

- theater, opera, and the arts with *Great Performances* and *American Playhouse*;
- documentaries with *The American Experience* and *Frontline*;
- children's educational programming with *WonderWorks* and *Reading Rainbow*;
- classical and cultural programming with public radio's *BluesStage* and *Fresh Air*; and,
- multicultural programming with *Afropop Worldwide* and *Soundprint*.

*Educational Services:*

- initiatives such as the *Satellite Education Resources Consortium (SERC)*, which provides live and interactive instruction in such critical subject areas as math, science, and foreign languages, in many cases to students who are in depressed rural areas which cannot afford to hire teachers. In 1990, 3,000 students in 23 states took advantage of this technology to obtain a better education and that number is expected to double in 1991;
- effective, direct instruction via public television for adults preparing for the GED test through Kentucky Educational Television's *GED on TV*: In West Virginia, 98 percent of the GED

---

[1] CPB is a nonprofit, nongovernmental corporation authorized by the Public Broadcasting Act of 1967 to facilitate the full development of public telecommunications and distribution of high-quality public service programs to all Americans.

tele-students successfully passed the diploma examination; in Minnesota, public television stations have combined literacy awareness with GED instruction and thousands of viewers have used the Literacy Hotline; and in Idaho, *GED on TV* is aired in cooperation with the state's Partnership for Workplace Literacy program; and,

- more than 1,300 hours of instruction video programming per school year for classroom use in all subjects in grades K-12.

***Increasing the Availability of Public Service Programming:***

- through expanding public radio in order to make its services available to as many Americans as possible;
- by developing new technologies such as closed-captioning and descriptive video and public radio's reading service for the visually-impaired; and,
- by promoting newly emerging technologies such as interactive television and computers, digital audio broadcasting, and direct broadcast satellites to ensure that the public broadcasting radio and television signal is available to as many Americans as possible.

In addition, CPB's partnerships with federal agencies, corporations, and nonprofit entities to deliver programs and services dramatically increases the impact of every federal dollar. Statistics have proven that ***every dollar CPB spends on programming alone generates an additional five dollars in nonfederal support.***

Through past appropriations, Congress has enabled CPB and public broadcasting to put into place a new satellite system that is technologically capable of providing these programs at a significantly lower cost to every corner of the country, as well as to undertake new initiatives to address further the educational needs of our children and workforce. Public broadcasting has grown beyond the traditional boundaries of the terrestrial broadcast signal and now utilizes multiple communications media to carry out its mission as efficiently and cost-effectively as possible.

## CPB AND THE COMMUNITY

Public broadcasting is a multifaceted and diverse endeavor of more than 700 public radio and television stations, as well as regional and national organizations throughout the United States, Puerto Rico, the Virgin Islands, and American Samoa. It has an enviable record of success in merging volunteer networks and telecommunications resources to empower communities to develop solutions to local problems that often have national ramifications. For instance, by using community-focused programming, public broadcasting can set in motion a nationwide, community-based awareness campaign of issues that significantly outlives the national attention focused on the original program.

A single program, accompanied by the local efforts of hundreds of stations, can attract thousands of individual volunteers. ***Programs that motivate citizens to participate in solving problems locally create a logrolling effect that can generate a national solution to a major "national" problem. No federal agency can address the problem of illiteracy faster, or more effectively, than neighbors teaching neighbors to read. No anti-drug program can keep children away from drugs better than parents helping other parents understand and defend their neighborhoods against drugs.***

At the national level, the Public Television Outreach Alliance (PTOA), which CPB helped to create and continues to fund, has focused attention and generated community action on such issues as drug and alcohol addiction, child abuse, childcare, AIDS, the environment, and, in 1991, the family. Today, nearly a decade after Mrs. Reagan first launched public broadcasting's outreach effort on drug abuse, more than 8,000 *Chemical People* task forces remain active throughout the United States.

Another major outreach programming effort that received initial and continued support by CPB is Project Literacy U.S. (PLUS), which combats illiteracy among the 27 million functionally illiterate adults in this country. Since its inception in 1986, First Lady Barbara Bush has lent her personal support and active involvement, which has been vital to the success of PLUS. Today, 500 literacy task forces and 200 mentoring task forces, composed of thousands of volunteers, are still in operation nationwide helping individuals learn to read.

In radio, outreach programming efforts include examining the various ways our youth are dealing with prejudice and stereotypes in today's society in the acclaimed *The Class of 2000 -- The Prejudice Puzzle*. This CPB-funded project combined an excellent, high-quality program produced for national distribution with locally produced complementary programming to help communities frame the issue on their own terms. Also in 1990, the CPB National Radio Program Production Fund supported the production of *Voices of New America*, a series of town meetings that explored an array of contemporary national problems such as drugs, housing, immigration, health care, and race relations.

These programs are the essence of public-private cooperation. They convert public broadcasting programs into public service projects providing benefits to the public well beyond broadcast.

During 1991, the PTOA, with continued support from the Corporation, is focusing on children and the family in a year-long outreach effort, "*ALL TOGETHER NOW*." Its goal is to emphasize the importance of nurturing all young people by supporting families, schools, and community services. It will build upon the track record established with past PTOA campaigns by tapping into many of the community partnerships that emerged from these efforts. Some of the themes that will be addressed during 1991 include:

- innovative solutions to problems faced by young people, such as dropping out of school, teen pregnancy, unemployment, and drugs;
- family support for children's education and the public schools;
- assistance for young people and their families of diverse cultures to understand and value their heritage and the differences between them; and,
- community support for families in the areas of housing, health care, and day care.

## CPB'S STEWARDSHIP OF THE PUBLIC TRUST

**What measures and initiatives are being taken by CPB to ensure that the public trust is being kept and the mission of public broadcasting vigorously pursued?**

### A. CPB System Support

CPB's authorizing statute contains a formula for expenditure of the Corporation's appropriations, the bulk of which is expended in the form of Community Service Grants (CSGs) for use by public radio and television stations which first must raise substantial nonfederal support on their own and then meet other basic criteria.

The portion of CPB appropriations allocated to CSGs is set by law and is currently 66 percent. During the 1980s, this percentage was raised by Congress from 59 percent, in part to soften the effect on stations of sharp reductions in CPB appropriations during the early 1980s. CSGs are used by television and radio stations to produce and acquire programming, finance production equipment and facilities, or pay for satellite interconnection services. During fiscal year 1994, CSGs are projected to be approximately $183 million, based on an appropriation of $279 million for the Corporation's general operations.

In addition to CSGs, CPB provides program grants to public radio stations in the form of National Program Production and Acquisition Grants (NPPAGs) to use at their discretion to produce or buy national programming. In fiscal year 1994, based on an appropriation of $279 million for general operations, CPB would award approximately $14.3 million (or 4.5 percent of the CPB appropriation) to public radio stations in the form of NPPAGs.

Total CPB funding provides approximately 14 percent of the operating revenues of public television and 20 percent of the operating revenues of public radio in the United States. However, the impact on the nation's public broadcasters and producers of television programs is greater than these percentages suggest. Appropriated federal funds represent the most secure, known revenues for many, if not most, stations. Advanced funding from Congress sets actual appropriations levels two years before stations receive their funds from CPB. Consequently, these funds are the base from which stations and program producers build their station services and plan program productions. These first federal funds attract state government, foundation, and other support, which in turn allows stations and producers to create the programs. This cycle of funding explains why federal funds are so critical. Federal funds are the magnet that draws other funds to the system. Producers use CPB grants as development money, stations use CPB grants to assure state support, and stations use CPB-funded programs to attract viewer and listener support.

***In exchange for this federal contribution, American citizens enjoy thousands of hours of radio and television programming that educate, inform, and enlighten children and adults alike.***

### B. CPB Program Development

As noted above, the most visible effort of the Corporation to further the mission of public broadcasting is through CPB's Radio and Television Program Funds, which provide funding for public radio and television programming that reflects national programming priorities, particularly for children and minorities. CPB has initiated funding for many of public television's hallmark series and programs, including: *Frontline, American Playhouse, The MacNeil/Lehrer NewsHour, WonderWorks,* and *The American Experience.* Radio programs initiated and supported by CPB include: *Marketplace, Latin File, Fresh Air, Morning Edition,* and *All Things Considered.*

But perhaps the best example of the importance of a continued, strong, flexible, and independent CPB presence in program funding is the critically acclaimed series, *The Civil War.* Six years ago, the Corporation decided to provide the producer with $168,000 to begin work on the project when it was still in the concept stage. More significantly, this support came from the Corporation before support could be obtained from other sources. During the ensuing years, CPB contributed an additional $200,000 to the production funding (bringing its support to approximately 15 percent of *The Civil War's* $3.42 million budget), including $175,000 for the design of an interactive educational videodisc and print materials so that the series can be used in the classroom for years to come.

In looking forward to the next decade and beyond, CPB adopted new procedures for awarding funds to improve the cultural diversity of programming on public television. Instead of the open solicitation process, the CPB Television Program Fund has moved toward solicitations for programs that meet identified audience needs. It has also established two minority program solicitations and a general program review. Also in 1990, an additional three million dollars was set aside solely for minority productions, and six million dollars was provided for independently produced programming through the newly established Independent Television Service (ITVS). The Corporation continues to support the CPB-created and jointly-managed CPB/PBS Program Challenge Fund and created a new documentary initiative focusing on the theme of "Rediscovering America."

The CPB Radio Program Fund supports a range of projects by independent producers, and projects by and about minorities. In general, projects funded must take programmatic risk and advance public radio's mission of serving an increasing number of Americans.

### C. CPB Accountability for Federal Dollars

Besides the more visible achievements of the Corporation in the areas of programming and educational efforts, CPB must maintain accountability for federal dollars. As stewards of the public trust, CPB has developed business practices that ensure efficient and effective expenditures of tax dollars through the internal and external auditing system of CPB-supported stations, programs, and activities.

### D. CPB Research and Planning

Central to CPB's mission is its responsibility to be a more forceful and credible advocate of the public interest and to participate actively in public broadcasting's strategic planning. In 1990, the Corporation assumed the critical task of conducting an annual assessment of public television audience needs. These needs will provide the basis for the national programming funding decisions of CPB and the Public Broadcasting Service (PBS), and will include a yearly review by CPB of how effectively the needs are being met.

CPB also conducts critical research and planning on national goals and priorities (the creation of the Public Television Outreach Alliance and the successful *Audience '88* study and action plan for public radio are only two examples of the value of this planning); collects public broadcasting data for analysis; maintains the strength and public commitment of the system of public stations through management training, particularly for women and minorities; and promotes audience expansion through the Radio Expansion Task Force.

### E. Radio Expansion

During the 1988 CPB reauthorization, Congress made clear its intent that CPB continue to lead the expansion of public radio in order to make its services available to as many Americans as possible. In 1990, CPB adopted a plan to establish two new radio station grant programs, two new expansion-related projects, and the extension of certain existing CSG grantee benefits to expansion stations. While CPB and public radio are striving to make this effort a reality, full implementation of the plan without placing existing stations at risk will not be possible without the level of support necessary to match the goals discussed during reauthorization.

Without a full appropriation of $279 million, one of the more immediate effects surely will be a need to scale-down this expansion until necessary resources are secured in later years. Furthermore, the more costly development of new programming necessary to sustain the expanded system underscores the importance of an affirmative and long-term federal commitment.

## THE FEDERAL ROLE IN PUBLIC BROADCASTING

Mr. Chairman, the Corporation is justifiably proud of its and public broadcasting's achievements and is confident that it is positioned to redouble its commitment to the nation's education efforts and the resolution of its pressing social problems. The Corporation believes, however, that these dividends can be realized only with the public's full commitment -- one that allows CPB and public broadcasting to unleash our full potential to address the challenges ahead. To do so will require the continued support of Congress on behalf of the public to provide sustained, adequate, and insulated funding. Already we are looking toward high definition television, fiber optic cable, and the expanded use of direct broadcast satellites. But it is clear that public broadcasting will not be able to meet such advances in technology if our funding continues to inch along behind the rate of inflation.

In 1982, CPB received appropriations of $172 million. In 1993, CPB will receive $253.31 million. ***The purchasing power of the 1993 appropriations will actually be 4.8 percent less than the 1982 appropriaiton when adjusted fo, inflation.*** At the same time, the public broadcasting system will increase from 557 stations in 1982 to an estimated 804 stations by 1993, further straining resources.

Also during the same period of time, technological advances and competitive pressures will result in an infusion of billions of dollars on the commercial side, causing the expenditure by public broadcasting of proportionately more for program production as competition for those resources increases.

Today, scarce funding strains the Corporation's and public broadcasting's ability to continue to offer the type of signature programming that is necessary to sustain individual donor and corporate underwriting support. To compound the problem, state governments, facing their own economic constraints, are cutting back support for public broadcasting.

## THE ADMINISTRATION'S PROPOSAL

The President has proposed that Congress appropriate only $260 million to the Public Broadcasting Fund in FY 1994 for general system support. While the Administration acknowledges that public broadcasting plays a vital role in the educational and cultural development of our nation, it apparently believes that the proposed funding levels will allow CPB to maintain and improve public service programming and to meet the needs of American public telecommunications without additional funds in FY 1994.

The President's proposal will not allow CPB and public broadcasting to maintain current levels, for it fails to adjust for the current rate of inflation or the increased number of stations supported by the Corporation, and makes no consideration for the new education initiative that public broadcasting is eager to undertake. It also would seriously restrict already scarce resources for national programming or projects aimed at increasing programming opportunities for minority and independent producers. In addition, the reduced growth in CSG funds available under the Administration's proposal would make it difficult for individual stations, particularly small stations already facing financial difficulties, to sustain their current program schedules because the cost of programming continues to rise faster than the rate of inflation and stations' abilities to raise revenues.

With the new satellite interconnection system in place in FY 1993 and operative until the year 2005, the opportunity will exist to take greater advantage of this valuable but underutilized national telecommunications resource. Now is not the time to under-invest in public broadcasting.

## CONCLUSION

For these reasons, Mr. Chairman, CPB requests an appropriation of $279 million for the Corporation's general operations in FY 1994, and an additional $76 million for the Public Telecommunications-For-Education Fund. This level of funding would enable public broadcasting to meet its mission of providing high quality, diverse, and innovative programming, to assist in the nation's education challenges, and to provide community-based outreach programs on pressing social issues.

In the past, Congress has taken the lead and the risk by appropriating funds to CPB in response to our requests on behalf of the 87.5 million viewers and 14 million listeners who each week enjoy and benefit from the multitude of programs and services provided by public broadcasting. I do not believe we have ever failed to deliver more than we have promised. I assure you that we will do our best to continue that record.

Thank you. I shall be pleased to respond to any questions you may have.

---

## BIOGRAPHY OF DONALD E. LEDWIG

Donald E. Ledwig, president and chief executive officer (CEO) of the Corporation for Public Broadcasting (CPB), brings 28 years of diverse experience in management, finance, public broadcasting, contracting, and telecommunications technology to the primary organization charged with the national growth and development of public radio and television in the United States. In 1991, CPB will spend $308 million in support of public broadcasting.

Ledwig was elected president and CEO by the CPB Board of Directors on July 2, 1987. He previously served as acting president from November 1986 to July 1987, and as vice president-treasurer from November 1984 to July 1987.

As president and CEO, Ledwig's goal is to strengthen the educational level and enrich the cultural life of all Americans through public service television and radio. "I would like public broadcasting to reach larger audiences without compromising its quality and diversity," says Ledwig, who backs audience-building efforts and the extension of service to all areas unserved by public broadcasting stations.

The CPB executive is strongly committed to public broadcasting, particularly in advocating federal funding for the system. Ledwig has testified before congressional committees since 1985 in consistently successful efforts to obtain increased federal funding for public broadcasting. He also sought and obtained $198 million in additional federal funds to replace public broadcasting's satellite.

Ledwig views CPB as a catalyst in providing "seed money" to diverse, innovative, high-quality programs that otherwise might not receive funding. He also considers CPB a "pump-priming" and stabilizing force for public broadcasting because CPB's forward funding provides the base for raising other funds and committing them to programs in the production pipeline. He is a member of the PBS National Program Policy Committee.

Among Ledwig's priorities is increasing the number and effectiveness of CPB's educational programs and materials to exploit the full potential of the public broadcasting system to serve the nation's learners. Currently, he is leading and coordinating a national public broadcasting initiative to improve the educational uses of telecommunications.

As the vice president-treasurer, Ledwig was the corporation's chief financial officer. He was responsible for budgeting and distribution of CPB funds to the public broadcasting system--including contracting for radio and television programs, overseeing corporate administrative functions, certifying the system's financial data to the Secretary of the Treasury, and adjudicating the findings of CPB audits.

Before joining CPB, Ledwig worked in government affairs with the Washington office of the LTV Corporation of Dallas, Texas, a Fortune 500 steel, oil, and aerospace industries corporation.

Prior to joining LTV, he was a career naval officer, serving on four ships of the U.S. Pacific Fleet and in various assignments ashore involving the business aspects of acquiring high technology systems. He directed contracting for all advanced telecommunications, electronic warfare, and space satellite systems for the U. S. Navy from 1981 to 1984.

From 1966 to 1972, Ledwig served in key business and federal appropriations process assignments with the Naval Nuclear Propulsion Program under Admiral Hyman G. Rickover. His military awards include the Legion of Merit and two Meritorious Service medals.

Ledwig holds a B.S. degree in economics from Texas Tech University and an M.B.A. degree in financial management from The George Washington University, and was an exchange student in Finland. He is a distinguished graduate of the Naval War College in national strategy and policy. The National Contract Management Association has designated him a certified professional contracts manager. He serves on the Annenberg and Carnegie Councils, and is an active member of the National Press Club.

In 1989, Ledwig received the Roscoe Barrow Memorial Award from the Hastings College of Law of the University of California for outstanding contributions to public broadcasting and the National Captioning Institute Award in 1990 for assisting the hearing impaired.

Born March 2, 1937, Ledwig grew up in Lubbock, Texas. He is married to the former Gail Wilcox of Boston. They have two sons and live in Alexandria, Virginia.

## CLOSED CAPTIONING

Senator HARKIN. Mr. Ledwig, thank you very much for a very fine statement.

I just have a couple of questions. First of all, CPB implemented a policy in 1989 that required captioning to be an integral part of each producer's budget. Can you give us some idea of what percentage of programs funded by CPB are being captioned?

Mr. LEDWIG. With your permission, I would like to include that for the record.

I will say, Mr. Chairman, we have extended closed captioning even to live programs such as the "MacNeil/Lehrer NewsHour," but I don't have the exact number.

Senator HARKIN. Besides that, because I know about that one, are you doing any other live productions?

Mr. LEDWIG. That is the most recent one where we have gone to the live production, and we generally require it in all of our funding agreements.

We have required or supported, and funded, the captioning chip, as you know, Mr. Chairman, which you supported, which will be available on all new television sets of 13 inches or larger in 1993.

Senator HARKIN. Yes.

Mr. LEDWIG. And we funded 10 percent of that development, and that project was funded, supported and delivered on time and on budget. It will be a great achievement for the hearing impaired.

Senator HARKIN. I don't know if you know that or not, but in 1993 every television set sold in America will have to have a little chip in it that automatically decodes it.

Mr. LEDWIG. Mr. Chairman, I just heard recently there has been a serendipitous benefit of that. Many of the sports bars in America are buying captioning equipment so that they can show a sports event and then the captioning will show what's going on because you can't hear the audio anyway in most of those bars. We didn't expect that would happen, but——

Senator HARKIN. I'm not so much interested in the bars. That's nice, a cute story.

But I read a story about a school in Los Angeles, I believe it was, was using a test, and here is what they did. These were slow learning kids in terms of learning to read, for example. And the teacher would put up like "Sesame Street," and they get these young kids interested in watching "Sesame Street." Of course, they were listening to it. And then they would turn off the sound and put captions on the bottom, and for the kids to follow it, they had to read the captions. And out of that one experiment, they can graphically show the increased rate of learning how to read with these kids.

So, where I had been focusing my attentions on addressing the problems of the deaf and the hard of hearing, I see a whole new horizon opened up out there for teaching kids and adults who may want to learn the English language. All kinds of things are being opened up out there in education. So, that connects with your thrust in education using captions.

## DESCRIPTIVE VIDEO SERVICE

The descriptive videos. I am somewhat familiar with that. What has been the acceptance by the visually impaired community? Have you done some test runs on that? Are they enthused by this?

Mr. **Ledwig**. We will have to provide that information for the record, but from anecdotal information it has been accepted with great approval and appreciation.

The visually impaired now can join the family circle around the television set for the first time and can hear a descriptive portrayal of what is happening on the television program without interrupting the other audio that goes with the programming.

We have also used that separate audio path that permits us to provide Spanish language translations simultaneously for the "MacNeil/Lehrer NewsHour." So, it is a spinoff of that same technology.

I might say that we were the funders initially of that development effort with WGBH in Boston and subsequently the Congress appropriated $1 million in 1990 and again in 1991 to the Department of Education. But there has been a contracting problem, and the Department of Education has not yet issued contracts for that money. So, there is a problem from a financial point of view in the descriptive video service area at the present time.

Senator **Harkin**. Mr. Ledwig, I happen to be a fan of public broadcasting.

First of all, I want you to know on "The Civil War" series, my daughter came home from school the other day. They are using it in their history class, American history. She had seen it last fall, but now they are seeing it again and getting instructional materials along with it. So, they are utilizing that.

Mr. **Ledwig**. We were pleased to be a funder of that effort.

## FUNDRAISING

Senator **Harkin**. I have to tell you what I'm really getting tired of. I finally find some time to watch television, and I have some good programs and things I want to watch on public television. And I turn it on and there's a telethon on. And it goes on and on and on. I just wondered. Have any studies been done on how many viewers you are losing because you have so many telethons out there trying to raise money? [Laughter.]

I have a hard time keeping a straight face asking you that.

Mr. **Ledwig**. Well, we have to do that to raise the other dollars we need. The Congress has never fully funded public broadcasting in the United States. They have encouraged us to develop other sources, and that is one of the sources.

Stations are very careful that they don't carry those on too long, and there is an acceptable range that is followed. But it is absolutely necessary to raise the additional funds that are critical to public broadcasting. And I don't know any station that enjoys having to do that.

Senator **Harkin**. I know because I have talked to some of them. It started out maybe it would be once a year they would do it. Well, then it was a couple of times a year. Now it is three times a year. I'm beginning to think it is going to be once a week now we are going to have these telethons. I sure hope not.

Mr. **Turner**. Those subscribers are the largest single source of support for public broadcasting, though. And going through the actual pledging is an interesting part of the process that gets so many people committed to public broadcasting. It is really a rich part of the formation of the culture of public broadcasting. But it sure would be great to figure out a way around pledge nights.

Senator **Harkin**. Being in the political life that I'm in, I once had someone say, look, Harkin, if you don't have a fund raiser I'll give you money. I hate coming to those things. Maybe that's what we ought to do with public broadcasting. You won't have the telethon if people send money.

Mr. **Turner**. A lot of stations actually have what they call a pledge light or a pledge free. If you give enough at one pledge period, you skip the next one. And that has been successful. Usually one time a year, they drop it from four to three or three to two over the year. That does work.

Senator **Harkin**. Let me know when you do that. I'll send in my check. [Laughter.]

Senator Stevens.

Senator **Stevens**. Well, Mr. Chairman, I am saddened to be here. I think I was one of the original cosponsors of CPB, and I believe that on occasion I have saved it.

But I am a little bit disturbed about this myth and fact circular. Who prepared this, Mr. Ledwig?

Mr. **Ledwig**. I'm not——

Senator **Stevens**. CPB response to Senator Stevens' myth and fact.

Mr. **Ledwig**. That apparently was prepared between staffs trying to answer questions raised by your staff with my staff.

Senator **Stevens**. It would have been nice if you had written me a letter, don't you think?

Mr. **Ledwig**. I'd be pleased to write you a letter.

Senator **Stevens**. I have had people calling me all month now from Alaska saying you have refused to answer their questions, refused to respond to their telephone calls, and we have been relaying that through my staff to your staff. And I walk in here today and find the myth and fact response to Senator Stevens.

Mr. **Ledwig**. That apparently is a between-staff packet of information—I have not seen that paper, Senator.

Senator **Stevens**. It was prepared in your office.

Mr. **Ledwig**. I have not seen that paper. I am told it's a direct response to the questions that we have received.

I have been in touch with public broadcasters in Alaska, and I have answered all phone calls I have received.

Senator **Stevens**. Well, I have been trying to relay to your people through my staff the complaints that I'm hearing now from the Native people of Alaska as reflecting the native Americans throughout the country. And I come in here and find out that we have got this myth and fact thing. I suggest you look at it.

Maybe you could start by answering me some questions.

In your budget is some $70 million for a new program that is not authorized. Is that right?

### CPB'S FISCAL YEAR 1994 AUTHORIZATION REQUEST

Mr. **Ledwig**. Neither our appropriation nor our education initiative are authorized. We need to be reauthorized for 1994.

Senator **Stevens**. But it is not an authorized program yet, is it?

Mr. **Ledwig**. That's correct.

Senator **Stevens**. But we are forward funding. Right? Two years from now. Right?

Mr. **Ledwig**. Right.

Senator **Stevens**. So, you are committing money now instead of meeting some of the problems like the Senator mentioned and I agree. I think there is much too much of this telethon. Fund raising on your programs. Instead of using the money that you get in the budget, you have earmarked it for something which cannot be used 2 years from now unless it is authorized. Right? That's the first time I have ever seen this from your Corporation.

Mr. **Ledwig**. Well, we sometimes have to appeal for our appropriations in advance of our authorization, but we do not receive the appropriations generally without the authorization. This year we are up for reauthorization, and those hearings are scheduled for 4 or 5 weeks hence.

Senator **Stevens**. Have you submitted that to the Commerce Committee of which I am also a member?

Mr. **Ledwig**. We have not submitted a proposal for reauthorization to the Commerce Committee.

Senator **Stevens**. But it is in your budget.

Mr. **Ledwig**. Yes; it's in our budget.

Senator **Stevens**. In lieu of some of the initiatives that we have been talking to you about in terms of dealing with native Americans, you have decided to go on a nationwide education program concept.

I am going to ask you a series of questions, and I want you to know, unless you answer them honestly, I am going to do my best to block your authorization this year. I am tired of having this Corporation for Public Broadcasting become a media mad concept for the megalopolis cities of this country. You were organized to try and help find a way to take the media into areas of the country where there was no service. And in some of the areas where there are sole service outlets, you are ignoring them. That's not a myth.

Mr. **Ledwig**. I understand.

Senator **Stevens**. You have listed my comment as a myth, and I will be glad to have you answer the question. How many cities in this country over 2,000 have no radio service? Do you know? I would advise you to look it up because you are going to answer it in the Commerce Committee hearing when you come.

Now, I think this is the greatest affront to a U.S. Senator I have seen in 22 years I have been here. And if you don't think I'm hot, I can only imagine how Barry Goldwater would have felt if he got that letter. And I believe he feels the same way I do about the way you have reached out to get into national concepts and ignored your congressional charter to help deliver service, media service, to those places who do not have any access.

We have also contacted our television stations in Alaska. Many of them don't even submit applications to you anymore because of the fact that you ignore them. It costs a lot of money for those little stations to get together the information to justify an award from your organization, and when you ignore them and ignore them and ignore them, they finally get the message.

I do not believe that you should deal with a Member of Congress the way you have dealt with me on this thing. I will tell you it is not going to happen again.

You wouldn't have forward funding if it wasn't for Barry Goldwater and me. We are the ones that fought that fight. You were about ready to die in the 1980's, and we fought that fight. And we fought because we believed in getting the message of national media into rural America, not downtown Los Angeles. How many stations do you support in downtown Los Angeles?

Mr. LEDWIG. There's probably three or four in that Los Angeles area.

Senator STEVENS. Out of how many over-the-air stations in Los Angeles? There is no semblance of a justification for a multiple outlet for CPB in Los Angeles because you have must-carry. They must carry it on the cable anyway.

And it just seems to me that you're totally ignoring the mandate that we thought you had from Congress. And if it takes a reauthorization bill to bring that mandate back into focus, I suggest to you I think the rural Senators, when they see this myth and fact concept that you put out today, are going to see to it that you get it.

The Chairman mentioned the problem about these fund raising shows. One of the things that some of the stations have been trying to do is to develop over-the-air lotteries or over-the-air type of gaming things where they wouldn't have to take the viewers' time in raising the money, but they could get participation in such things by virtue of sending in an application or participating in some way in some sort of a lottery. Now, almost every State in the Union today has lotteries. We have seven of them here in the District of Columbia. But your people will not even answer the letters about such gaming. Can you explain why?

Mr. LEDWIG. Senator Stevens, just let me say, first of all, that the correspondence you have I have not seen, and that is not my statement to a Member of Congress. And I apologize if you have been offended by it, and I'll be pleased to address it.

Senator STEVENS. I'm deeply offended.

Mr. LEDWIG. I understand.

Senator STEVENS. I advise you to read it because it came from your shop.

Mr. LEDWIG. Yes.

## SERVICE TO RURAL STATIONS

Second, I am deeply concerned about your statements concerning the Corporation and our ability currently to fund initiatives in rural and unserved areas because you are quite right, Senator. That is what we are all about. And in 1988 we lost much of our discretionary dollars that we used in that area. Before then we had our interest income. We used it principally to help public radio and largely in rural and unserved areas, particularly Alaska. Before that time we had a larger radio program fund that funded the native American news service, and we tried very much to serve rural areas and to, at the national level, do what a market system would not do. Our position in 1988 was clear that we felt that the Corporation at the national level should address the very problems you pointed out just now, Senator.

Senator **Stevens**. Well, you cleared $76 million through OMB for a program that's not authorized.

Mr. **Ledwig**. No; we did not. OMB did not clear that initiative.

Senator **Stevens**. How can you present it here if it's not cleared?

Mr. **Ledwig**. Because we are not a government agency, and not being a government agency, we can, as a private corporation, ask the Congress to do what we believe is in the national interest.

Senator **Stevens**. How about you fund first your existing charter and get the money to replace what you lost? If you can ask for $76 million more to go into a new education program to affect the national programming, why can't you ask for the money to replace what you have lost to protect rural programming?

Mr. **Ledwig**. We are going to, as part of our reauthorization request, ask for more discretion, particularly with our interest income.

Senator **Stevens**. You are asking for $4 million discretionary.

Mr. **Ledwig**. Our interest income is more than that. If we had discretion over that, we would have the dollars to help fund the rural radio initiative that has come from Alaska Public Radio. Or there is another way. There is another way to address it, and that is by a set-aside, and including that as part of the educational initiative that we are proposing.

Senator **Stevens**. I don't think I'm just talking about Alaska radio. I think there are underserved areas in the whole country.

Mr. **Ledwig**. I agree.

Senator **Stevens**. I must say television is coming into this too. We are funding things on a television basis that are nationally oriented, national programs, but they are not getting to the local people who have no television. They are not getting to the local people who have no radio. That is what you were for, to take the existing signals into those places, to help them get them. And I think you have lost sight. You have all lost sight of what you are doing.

And, Mr. Turner, you are going to get one real mad Senator in terms of dealing with your Corporation if they continue to deal with us this way.

Mr. **Turner**. I look forward to reading that, Senator.

I should also mention that I have had several phone conversations this year with the executive director of Alaska Public Radio. I was fortunate to have the opportunity to meet her, along with most of the rest of the board members of Alaska Public Radio when we had our board meeting in Alaska last summer. You were able to attend one of our functions there, too.

And I think that trip and other activities, but particularly that trip, graphically demonstrated the value of rural public radio to us, and we all came away from that experience impressed with the quality of service that was being delivered there. We visited public radio stations from Barrow down to Homer. It is the essence of public service by public radio stations in terms of the communication they were giving to their community, the emergency services they were providing. They were really knitting together what have to be some of the most disparate cultures and the most distant cultures geographically from each other, in those areas. We were very impressed with it.

The executive director contacted me initially in January about some ideas for this, and as I say, she and I have probably had 8 or 10 conversations. This problem is something that I know CPB is seriously interested in.

Senator STEVENS. She is a fine woman. I don't want to belabor it, Mr. Chairman. She is a fine woman. She works very hard, and those people get hardly any compensation for running those public stations.

Public broadcasting, at least in the television sense, started in Alaska years ago before 1969 when I insisted on the military bending their signal from one military station, Mr. Chairman, into a local community that didn't see why the Federal Government could put a TV into the base, but they had no TV at all off the base. And through the thoughtfulness of the military at the time, they helped us. They saw it worked. It assisted in their public relations, and we started a whole concept—the sharing of television. When we got down here and found out this whole concept of CPB was coming, that came out, and I was more than pleased to see the whole concept become national.

But it became national on the basis of trying to find two things. One was a way to take the broadcasting media into areas that were completely starved of media. Most of the places that have public radio stations in my State do not have local newspapers. They have no access to anything other than that radio station. Second, we were looking for a yardstick to develop things like the "Adams' Papers," like your very successful "Civil War" series. That is a yardstick to challenge the networks to excellence. Now, that is the national goal, as far as I was concerned, for those of us who were here in the 1960's dealing with CPB.

But it seems to me that you are now going beyond that and looking for a national participation in terms of the megalopolises, the New Yorks, the Los Angeleses. And I am going to dig out from you the amount of money that is spent in those places compared to the amount of money you are spending in rural areas. You are neglecting rural America, not just Alaska.

Incidentally, we have cities that have adequate television and radio coverage, and you'd never find me objecting if they were the ones that were starved as far as assistance for the public stations. It's the rural stations that need the help if we are going to keep our country together. And I think Senator Harkin must have some places. I know other places in the country that do. It is not just an Alaska question I'm mentioning.

Incidentally, the natives that we are talking about, 150 different stations were using that native news program, and there aren't 150 stations in all of Alaska. So, it was not an Alaska situation. It was native news for native Americans nationwide. But they are primarily in rural America. They are on the reservations and the cities next to the reservations.

Mr. LEDWIG. Senator, if I might respond. And we can fund such programs centrally at CPB, which has been our role. But in 1988, we were required by our authorizing legislation to pass 93 percent of our public radio funds directly to the stations, and with that the responsibility for funding those programs through the grant process that was required by the legislation.

We have used the discretion that we have to help with public radio expansion. We have used discretionary dollars and we have required, together with the stations, that the community service grant be used to fund——

Senator STEVENS. Well, I was part of that, too, but there is nothing that says those individual stations can't support national networking. We supported that because the national networking decisions were coming from your office, and you were deciding what rural people wanted to see. We thought they ought to have the money and they ought to decide what they participated in in terms of national programming that they wanted on their stations. So, that was not a denial of money for rural America. It was denial of control of what rural America saw being vested solely in Washington, DC. We didn't take money away from rural stations.

Mr. LEDWIG. No; I understand that.

Senator STEVENS. We gave it to rural stations and said if you want to see "MacNeil/Lehrer," if you want to hear a radio program, you put your money into the pot.

Mr. LEDWIG. That's right.

Senator STEVENS. It was a studied congressional decision at the time. It was not taking a decision of whether they should have the service. It was giving them the decision of whether they——

Mr. LEDWIG. That's right. I say it passed the responsibility to them for making that choice, and if they do not choose those programs and we do not have the dollars to fund such programs. Then they will not be funded although we continue to have a small radio program fund and we do tend to fund minority and other programs that might not get funded in a market process.

Senator STEVENS. They can't make those decisions unless you give them some money. That's the problem. And you're asking for the money to expand your service into a national education service rather than funding the rural stations.

There is a gentleman out there in the audience that knows what I'm talking about. He was with Magnuson for years and years and years, and he knows the background of these programs and how hard we fought to keep them in the days when they were under attack. If you keep it up, they will be under attack again. That's the problem you have in my opinion. If you ignore rural America, you are going to lose CPB.

Thank you, Mr. Chairman.

Senator HARKIN. Thank you very much, Senator Stevens.

I have a number of other questions I'll submit to you in writing.

## INDEPENDENT TELEVISION SERVICE

I just wanted to say that I am very pleased with the progress that CPB has made in reaching an agreement with the Independent Television Service so that independent producers can access the funds Congress intended they have. I know this has been going on for a couple of years. I have been following it, and I understand that you have signed a contract.

Mr. LEDWIG. We have an agreement.

Senator HARKIN. I am glad that that has finally taken place.

You mentioned something. I have a lot of other witnesses this afternoon. You mentioned something about a new block of children's programming for weekend viewing. Is this the idea? I just caught it. I didn't see it in your statement, but I heard you mention it, Mr. Turner, about a new block of children's programming. What was meant by that?

## CHILDREN'S PROGRAMMING

Mr. TURNER. Children's programming has been some of our most successful work public television has done. One of the things our program fund is working on is a new children's series for the post-Sesame Street age-group. There are different ideas going into it, particularly we are focusing, for example, on the kind of programming that might be useful to show in a day care center to supplement that kind of activity and other kinds of audiences. That is part of the education initiative.

Senator HARKIN. I thought maybe you were talking about a specific programming that was being developed.

Mr. LEDWIG. We are funding a game show format of a geography program called "Where in the World is Carmen Sandiego?" which will be an effort to teach geography through that game show format.

Senator HARKIN. I am very familiar with that program. We have it on our computer at home, "Where in Time is Carmen," and then there's another one also. There are two of them that I know about.

Mr. LEDWIG. We have just recently, Mr. Chairman, received some research concerning the "Square One Television" which teaches mathematics. It is 5 years old now funded by CPB, and the study is quite conclusive that the program teaches mathematics to children very effectively.

Senator HARKIN. I am very familiar with that too.

Well, I was going to ask you about small radio stations in rural areas, but I think that has been covered. [Laughter.]

Mr. TURNER. I guess it has.

## SATELLITE REPLACEMENT

Senator HARKIN. Is the satellite replacement still on schedule for 1993?

Mr. **Ledwig**. Yes; it is. It is on schedule. The contracts have been signed between the Corporation and PBS and National Public Radio, and it is on schedule.

### QUESTIONS SUBMITTED BY THE SUBCOMMITTEE

Senator **Harkin**. Well, thank you very much for being here, and I look forward to working with you in the future. As I said, I have some questions for the record that I will be submitting to you in writing.

Mr. **Turner**. Thank you.

Senator **Harkin**. Thank you very much.

Mr. **Ledwig**. Thank you, Mr. Chairman.

[The following questions were not asked at the hearing, but were submitted to the Corporation for response subsequent to the hearing:]

## QUESTIONS SUBMITTED BY THE SUBCOMMITTEE

### CPB: Public Telecommunications-For-Education Fund

You are requesting $76 million for a new, separate "Public Telecommunications-For-Education Fund" that I understand will be considered by the authorizing committee this year.

Q. What discussions took place with public broadcasting stations as the CPB proposal evolved? Was there a process employed to ensure that public broadcasting stations participated in the development of the education initiative?

A. Stations were involved in the evolution of CPB's Education Initiative at the earliest planning stages beginning in April 1990. Various system representatives, including national organizations and regional networks, met to begin to discuss ways in which the resources of public telecommunications could be combined with those of the business and education communities to identify solutions to the current crisis in American education.

Working with several national and regional public broadcasting organizations, the Corporation introduced the idea of an Education Initiative to the public television system at the 1990 Public Broadcasting Service Program Meeting last June. Two system surveys were subsequently conducted. One was done at FirstView, an annual conference comprised predominantly of instructional television professionals from across the country. The other was a direct mail survey issued to all public television station general managers. Ninety stations responded positively to the survey, which requested their involvement in the initiative.

Update memos and status reports have been issued periodically to ensure that the system remains informed. CPB also scheduled sessions at recent regional meetings as a way of communicating, updating, and receiving feedback from the system.

As the plans progressed and our contacts grew, it became increasingly evident that the needs of the system vis-a-vis education could only be addressed by public broadcasting and its partners with increased resources. This gave rise to the development of our request for a Public Telecommunications-For-Education Fund to be used exclusively to create and deliver educational programming and services to all Americans using the most advanced, cost-efficient telecommunications technologies available. This Fund would not only support national education efforts, but would address local concerns and implement national projects at the local level.

Also, our request for a separate fund for education was developed with full recognition of the priorities, concerns, and other input of national organizations representing public television and radio stations. This input was gathered by CPB during a series of meetings with officials from national organizations held between June 1990 and February 1991, when CPB included its proposed initiative in the CPB Appropriations Justification submitted to this subcommittee.

Q. Does the education setaside have the support of public broadcasting managers?

A. A set-aside for education has the support of many individual public broadcasting managers. We are currently working closely with the national organizations to arrive at a mutually agreeable approach that can be embraced by the entire system.

In your testimony, you give examples of programs which have been produced by public television and are now being adapted for the classroom. In addition, you mention outreach programs like "Prejudice Puzzle" and "Project Literacy U.S.," which clearly meet your goal of developing literacy programs and participating in national educational problems. All were developed without a special education initiative.

Q. Is a separate fund like the Public Telecommunications-For-Education Fund necessary to provide educational services, or could additional money in the general CPB fund be used to accomplish the same goals?

A. CPB firmly believes that a separate fund for education is necessary. Outreach programs like PLUS and the Prejudice Puzzle have received limited support over the years based on our belief in the importance to the community. However, they are but one component of the proposed education initiative.

Planned allocations for the Public Telecommunications-For-Education Fund include $7.6 million for research and development that will support the application of tools and technologies that promise to bring technological efficiencies to the creation and delivery of education programming and services. It will also plan the appropriate integration of, and pilot test, such tools and technologies. CPB also would earmark $30.4 million to support the development and production of specific educational programming and ancillary materials focusing on national education goals, to be distributed via public broadcasting's expanded telecommunications highway and other non-broadcast technologies. Finally, CPB would allocate $38 million to make individual grants to public radio and television stations that use the resources of their station to support objectives of the Fund at the local level.

A separate fund would ensure support for each of the three designated areas. A certain level of flexibility is necessary in that distribution of funds in each area may vary depending on time and need, e.g., the first year likely would require more development funds than subsequent years. In addition, a separate fund would allow the distribution of funds to change from year to year to meet identified educational needs as they evolve.

Separating the funds also would allow CPB to describe planned activities and expected outcomes from which Congress could measure progress and results on an annual basis. CPB would be in a position to assure Congress that the funds are being used for educational purposes.

Should funding not be earmarked specifically for the Public Telecommunications-For-Education Fund, but simply added to the Public Broadcasting Fund, there is no guarantee that stations would reaggregate the funds on the national level for production of programs in support of education.

Finally, the utilization of television and radio within the Education Initiative would be different, requiring a separate distribution pattern for each media, the oversight for which could be handled only by a central organization.

In summary, all federal resources appropriated in a Public Telecommunications-For-Education Fund will go toward specific national goals set by CPB, in consultation with all involved parties, to help ensure that: 1) all funds would leverage the extensive resources available to public broadcasting at the local community level; and 2) the plan would directly support the public-private partnership being established between public broadcasting and the national business community.

## CPB: Independent Television Service (ITVS)

Mr. Ledwig, I'm very pleased with the progress that CPB has made in reaching an agreement with the Independent Television Service so that independent producers can access the funds Congress intended they have. I am told that CPB and ITVS reached a final agreement last night after nearly two years of difficult negotiation.

Again, I'm pleased that this has all been worked out.

Q. Has a contract been signed?

A. We are in the final stages of completing a series of contracts with the ITVS that will provide operating support and production and promotion funds for the ITVS through the end of fiscal year 1992. CPB and the ITVS are finishing the last few details of these agreements, but all substantive issues have been resolved. We see no impediment at this time why we should not have signed agreements in place in the next several weeks.

It has been clear to CPB since the inception of this concept by the Congress and as reflected in the legislative history, that CPB was to have no control over the selection of the programs to be funded by this independent service. Otherwise, the funds could have been left at CPB for its discretionary funding of programs by independent producers. Accordingly, under the terms of the contracts, the Corporation will have no role in selecting the programs funded by the ITVS, and no artistic or editorial control over the production of those programs.

## CPB: Captioning and Descriptive Video Service

CPB implemented a policy in 1989 that required captioning to be an integral part of each producer's budget.

Q. What percentage of programs funded by CPB are being captioned?

A. Virtually all CPB-funded programs are being captioned. In FY 1989, CPB implemented a policy whereby all producers receiving funds from CPB must incorporate the costs of closed captioning in their respective production budgets. In that way, all programs are captioned, and all funders participate in the costs of closed captioning.

Q. What about live productions funded by CPB?

A. The MacNeil/Lehrer NewsHour is the only live production funded by CPB. It is being captioned in real time through a grant from the Department of Education and the John D. and Catherine T. MacArthur Foundation.

Q. What are the most recent figures for programs from all sources aired by public television stations?

A. Our most recent figures, from fiscal year 1988, show that 39 percent of the programming shown on public television is captioned. Of that amount, about half of the programs are instructional (24 percent of total captioned programs) or children's (23 percent) programming, followed by nature and science programming (15 percent) and news (12 percent). The single largest source of captioned programming is the Children's Television Workshop.

I know that CPB has been experimenting in descriptive video service for the visually impaired.

Q. What percentage of programs funded by CPB are now offered in descriptive video?

A. During 1990, four series were offered in descriptive video: American Playhouse, Mystery, DeGrassi High, and WonderWorks. A total of approximately 85 programs were completed and aired. The service started with just 28 stations broadcasting descriptive video; that total has increased to 51 stations and is expected to grow to 56 stations by the end of this spring. During the upcoming year, the focus will be on expanding the offerings in descriptive video to include science and nature programming.

Q. What has been the reaction to these descriptive videos by visually impaired audiences?

A. The service has been enthusiastically received by audiences and organizations for the visually impaired. In addition to an overwhelming positive response from visually impaired individuals who have been able to participate fully in television viewing for the first time, the service has received several prestigious national awards including the American Council of the Blind Vernon Henly Memorial Award, the Perkins Project with Industry Special Recognition Award, and an Emmy to public television for the use of the service to provide increased access to television.

Just two of the comments from viewers who have used the service are:

"My first experience with DVS was very emotional. I found myself pacing the floor in tearful disbelief. It was like somebody had opened a door into a new world in which I was able to see with my ears what most people see with their eyes. The new world I describe is that of body language. To a person who has never seen, body language does not exist."
Jane Morin, Auburn, MA

"Whether entertaining, educational, or cultural, television has become an integral part of American life. I, and other blind and visually impaired people, have always participated in television viewing, but with DVS, we are finally participating equally."
Deborah Kendrick, Cincinnati, OH

## CPB: Corporate Operations

You are requesting more monies than are currently allowed for corporate operations. Under the current law, the increase would be adjusted from the previous year at the rate of inflation or 4 percent, whichever is greater.

Q. How do you justify an increase in funding for this activity?

A. CPB's request is not asking to increase funding in the normal sense in which that term is used. In 1989-90 the General Accounting Office reviewed our general operations and gave us a positive bill of health. However, they recognized and we concurred, that there were categories of spending in which legislative language was unclear, in which correct categorization of expenses was difficult.

Consequently, CPB is asking Congress to give us more flexibility to allow us to allocate available operating resources in a manner that is most operationally efficient. As we become more involved with long-range strategic planning, audience and program research, and other activities most efficiently coordinated at the national level, CPB needs that flexibility. Such actions are quite difficult now with fixed funding levels and arbitrary spending categories. We also believe that our internal budget process, monitored by a Board with system representatives on it assures Congress that CPB spending in this area would receive substantial oversight and that such spending would be in the best interests of the system as a whole.

Additionally, it is important to note that CPB is now fully absorbing the costs of the Congressionally mandated Inspectors General Act, certain independent television service costs, and other similar requirements that were not taken into consideration when the current legislative language was adopted.

In summary our record of spending for direct cost activities (program selection, grants management and similar activities) and CPB's general and administrative costs are well below acceptable bounds for an appropriation our size (4-5 percent) compared with approximately 12 percent at the National Endowments for the Arts and the Humanities. CPB can manage its appropriation more effectively with the modest additional flexibility requested.

## CPB: Public Radio Expansion Project

This is the first year of implementation of the Public Radio Expansion plan to develop the economic viability of small public radio stations, including rural stations.

Q. What new policies have been implemented? What has been done to date?

A. CPB implemented a fully operational Public Radio Expansion program by a resolution passed by its Board of Directors in January 1990, and some radio expansion activities were actually underway late in 1989. The attachment provides a current description of activities developed by CPB to identify and assist interested stations in becoming active participants in public radio.

These activities have, within the limits of available resources, been a resounding success, albeit at the expense of added revenues to existing qualified stations. Since actual federal appropriations have fallen considerably short of the levels authorized by Congress in 1988 [see table below], CPB and public radio have been forced to create programs that (1) encourage emerging stations to participate in the system; and (2) do not drain too many resources from the existing public radio service. CPB has used a mix of its available resources along with modest allocations of funds allocated to station grant programs to put together a functional, fair expansion program. More resources are needed to allow these stations to flourish without damaging the existing stations.

| FY | Requested | Authorized | Appropriation |
|---|---|---|---|
| 1990 | $254,000,000 | $254,000,000 | $229,391,000 |
| 1991 | 395,000,000 | 245,000,000 | 242,060,000 |
| 1992 | 411,000,000 | 265,000,000 | 251.030,000 |
| 1993 | 427,000,000 | 285,000,000 | 253,319,000 |

Last year at this time, public radio was reaching approximately 86 percent of potential listeners.

Q. Has that figure moved any?

A. The 86 percent public radio figure comes from a study completed last year by the National Telecommunications Information Administration, which included a different and larger set of noncommercial radio stations than that which CPB traditionally uses in its radio coverage measurements, as well as a different measurement methodology.

CPB measures public radio coverage by including only those stations which are CPB Community Service Grant recipients or which belong to National Public Radio or American Public Radio. Using this definition, public radio coverage was approximately 85 percent of potential listeners as of September 1990. This represents a substantial growth in recent years; in 1988 the figure was only 81 percent. We expect the coverage percentage to increase significantly again over the next few years as our radio signal extension policies are implemented.

## CPB: Satellite Interconnection Fund

Q. What is the status of the satellite replacement project? Will the new Telstar 401 be launched in February of 1993 as scheduled?

A. The final launch date for Telstar 401 [the satellite that will provide public television transponder services] has not been firmly set, but will likely be in the summer of 1993 rather than February of 1993, as previously projected. Public television will use interim satellite service it has acquired to bridge the gap between now and the launch. This delay does not affect the useful life of the system once in orbit, so the service time of acquired transponders will simply project further into 2005 than previously planned.

Otherwise both the radio and the television satellite replacement projects are well underway and proceeding fully within the scope of the plans recently reported to the Senate Committee on Appropriations. A major focus of both projects has been the explosion of new technologies, especially digital compression, on both radio and TV broadcast, and satellite distribution systems. Exciting opportunities are emerging in both the audio and video sides of this technology.

Q. Does CPB still project replacement costs at $201.9 million?

A. CPB has not attempted to project the total costs of replacing the existing satellite interconnection systems. At the present time, using rough estimates of some component costs, public radio estimates its total system will cost approximately $54 million while public television is estimating total system costs of $168 million. Together these total $222 million, $23.5 million more than was appropriated by Congress under authorization language adopted by Congress in 1988 ($200 million). Both radio and television expect to bring their final projects in at total cost levels between the $198.6 million appropriated and the $222 million now estimated to cover all costs. These figures are expected to be refined and to decline as bids are received on major hardware components over the next year.

## CPB: Unexpended Federal Funds

CPB's appropriations are not restricted by year and remain available until expended.

Q. Please provide the Committee with a chart of the amount of funds appropriated to CPB each fiscal year, 1985-1990, by activity, and the amount of those funds, for each fiscal year, by activity, that remained unspent at the end of the fiscal year.

A. The attached tables provide this information. The data show that CPB has a two year spend-out rate that appears to vary from year #1(95%-97%) and year #2 (5%-3%) for major grant accounts to (60%)(40%) for production assistance programs and other system support activities.

### Corporation for Public Broadcasting
### FY 1985 Budget By Activity

| | FY 1985 Budget | Prior Yr | Total Funds | Expenses | Unexp. Balances |
|---|---|---|---|---|---|
| **REVENUES/OTHER RESOURCES** | | | | | |
| **Appropriation** | $150,500 | $0 | $150,500 | | |
| **Other Resources** | $9,000 | $20,694 | $29,694 | | |
| | $159,500 | $20,694 | $180,194 | | |
| EXPENSES | | | | | |
| **Television** | | | | | |
| TV CSGs | $76,191 | $4,224 | $80,415 | $79,706 | $709 |
| TV Program Fund | $26,121 | $9,402 | $35,523 | $19,646 | $15,877 |
| **Radio** | | | | | |
| Radio CSGs | $22,114 | $1,958 | $24,072 | $23,764 | $308 |
| NPPAGS | n/a | n/a | n/a | n/a | n/a |
| Radio Program Fund | $12,795 | $250 | $13,045 | $12,219 | $826 |
| **System Support** | $15,216 | $4,860 | $20,076 | $10,274 | $9,802 |
| **Corporate Support** | $7,063 | $0 | $7,063 | $6,228 | $835 |
| Total | $159,500 | $20,694 | $180,194 | $151,837 | $28,357 |

### FY 1985 Summary Table

| | |
|---|---|
| Fund balance EFY 1984 | $14,510 |
| FY 1985 Appropriation | $150,500 |
| Other CPB FY 1985 Revenue | $9,442 |
| Total | $174,452 |
| Total Expenses | $151,837 |
| Obligations 9/30/85 | $25,259 |
| Property Fund 9/30/85 | $600 |
| | $177,696 |
| Net Fund Balance 9/30/85 | -$3,246 |

**Corporation for Public Broadcasting**
**FY 1986 Budget By Activity**

| | FY 1986 Budget | Prior Yr | Total Funds | Expenses | Unexp. Balances |
|---|---|---|---|---|---|
| **REVENUES/OTHER RESOURCES** | | | | | |
| **Appropriation** | $159,500 | | $159,500 | | |
| **Other Resources** | $7,050 | $25,259 | $32,309 | | |
| | $166,550 | $25,259 | $191,809 | | |
| **EXPENSES** | | | | | |
| **Television** | | | | | |
| TV CSGs | $80,747 | $709 | $81,456 | $81,094 | $362 |
| TV Program Fund | $28,800 | $19,355 | $48,155 | $36,709 | $11,446 |
| **Radio** | | | | | |
| Radio CSGs | $24,287 | $307 | $24,594 | $24,437 | $157 |
| NPPAGS | $0 | $0 | $0 | $0 | $0 |
| Radio Program Fund | $12,000 | $1,260 | $13,260 | $12,634 | $626 |
| **System Support** | $13,839 | $3,628 | $17,467 | $15,341 | $2,126 |
| **Corporate Support** | $6,877 | $0 | $6,877 | $6,404 | $473 |
| Total | $166,550 | $25,259 | $191,809 | $176,620 | $15,189 |

**FY 1986 Summary Table**

| | |
|---|---|
| Fund balance EFY 1985: | $22,614 |
| FY 1986 Appropriation | $159,500 |
| Other CPB FY 1986 Revenue | $8,116 |
| Total | $190,230 |
| Total Expenses | $176,620 |
| Obligations 9/30/86 | $15,820 |
| Property Fund 9/30/86 | $800 |
| | $193,240 |
| Net Fund Balance 9/30/86 | -$3,011 |

**Corporation for Public Broadcasting**
**FY 1987 Budget By Activity**

| | FY 1987 Budget | Prior Yr | Total Funds | Expenses | Unexp. Balances |
|---|---|---|---|---|---|
| **REVENUES/OTHER RESOURCES** | | | | | |
| **Appropriation** | $200,000 | $0 | $200,000 | | |
| **Other Resources** | $7,729 | $15,820 | $23,549 | | |
| | $207,729 | $15,820 | $223,549 | | |
| **EXPENSES** | | | | | |
| **Television** | | | | | |
| TV CSGs | $101,250 | $371 | $101,621 | $100,319 | $1,302 |
| TV Program Fund | $34,339 | $11,908 | $46,247 | $30,225 | $16,022 |
| **Radio** | | | | | |
| Radio CSGs | $31,950 | $157 | $32,107 | $31,869 | $238 |
| NPPAGS | $0 | $0 | $0 | $0 | $0 |
| Radio Program Fund | $13,050 | $624 | $13,674 | $13,604 | $70 |
| **System Support** | $18,465 | $2,741 | $21,206 | $16,646 | $4,560 |
| **Corporate Support** | $8,675 | $19 | $8,694 | $8,379 | $315 |
| Total | $207,729 | $15,820 | $223,549 | $201,042 | $22,507 |

### FY 1987 Summary Table

| | |
|---|---|
| Fund balance EFY 1986: | $13,619 |
| FY 1987 Appropriation | $200,000 |
| Other CPB FY 1987 Revenue | $7,158 |
| Total | $220,777 |
| | |
| Total Expenses | $201,042 |
| Obligations 9/30/87 | $20,675 |
| Property Fund 9/30/87 | $1,000 |
| | $222,717 |
| | |
| Net Fund Balance 9/30/87 | -$1,940 |

### Corporation for Public Broadcasting
### FY 1988 Budget By Activity

| | FY 1988 Budget | Prior Yr | Total Funds | Expenses | Unexp. Balances |
|---|---|---|---|---|---|
| **REVENUES/OTHER RESOURCES** | | | | | |
| **Appropriation** | $214,000 | $0 | $214,000 | | |
| **Other Resources** | $7,800 | $20,675 | $28,475 | | |
| | $221,800 | $20,675 | $242,475 | | |
| **EXPENSES** | | | | | |
| **Television** | | | | | |
| TV CSGs | $108,338 | $1,302 | $109,640 | $109,524 | $116 |
| TV Program Fund | $36,702 | $16,019 | $52,721 | $37,983 | $14,738 |
| **Radio** | | | | | |
| Radio CSGs | $34,187 | $238 | $34,425 | $34,107 | $318 |
| NPPAGS | $0 | $0 | $0 | $0 | $0 |
| Radio Program Fund | $14,603 | $124 | $14,727 | $13,284 | $1,443 |
| **System Support** | $18,780 | $2,992 | $21,772 | $16,980 | $4,792 |
| **Corporate Support** | $9,190 | $0 | $9,190 | $9,829 | -$639 |
| Total | $221,800 | $20,675 | $242,475 | $221,707 | $20,768 |

### FY 1988 Summary Table

| | |
|---|---|
| Fund balance EFY 1987 | $19,735 |
| FY 1988 Appropriation | $214,000 |
| Other CPB FY 1988 Revenue | $10,097 |
| Total | $243,832 |
| | |
| Total Expenses | $221,707 |
| Obligations 9/30/88 | $19,900 |
| Property Fund 9/30/88 | $900 |
| | $242,507 |
| | |
| Net Fund Balance 9/30/88 | $1,325 |

## Corporation for Public Broadcasting
## FY 1989 Budget By Activity

| | FY 1989 Budget | Prior Yr | Total Funds | Expenses | Unexp. Balances |
|---|---|---|---|---|---|
| **REVENUES/OTHER RESOURCES** | | | | | |
| **Appropriation** | $228,000 | $0 | $228,000 | | |
| **Other Resources** | $7,970 | $19,900 | $27,870 | | |
| | $235,970 | $19,900 | $255,870 | | |
| **EXPENSES** | | | | | |
| **Television** | | | | | |
| TV CSGs | $115,425 | $115 | $115,540 | $115,254 | $286 |
| TV Program Fund | $38,950 | $14,730 | $53,680 | $35,222 | $18,458 |
| **Radio** | | | | | |
| Radio CSGs | $35,910 | $317 | $36,227 | $35,906 | $321 |
| NPPAGS | $0 | $0 | $0 | $0 | $0 |
| Radio Program Fund | $15,990 | $1,443 | $17,433 | $15,768 | $1,665 |
| **System Support** | $19,495 | $3,295 | $22,790 | $16,658 | $6,132 |
| **Corporate Support** | $10,200 | $0 | $10,200 | $9,566 | $634 |
| Total | $235,970 | $19,900 | $255,870 | $228,374 | $27,496 |

### FY 1989 Summary Table

| | |
|---|---|
| Fund balance EFY 1988: | $22,125 |
| FY 1989 Appropriation | $228,000 |
| Other CPB FY 1989 Revenue | $12,454 |
| Total | $262,579 |
| Total Expenses | $228,374 |
| Obligations 9/30/89 | $25,160 |
| Property Fund 9/30/89 | $700 |
| | $254,234 |
| Net Fund Balance 9/30/89 | $8,345 |

## Corporation for Public Broadcasting
## FY 1990 Budget By Activity

| | FY 1990 Budget | Prior Yr | Total Funds | Expenses | Unexp. Balances |
|---|---|---|---|---|---|
| **REVENUES/OTHER RESOURCES** | | | | | |
| **Appropriation** | $229,391 | $0 | $229,391 | | |
| **Other Resources** | $13,100 | $25,160 | $38,260 | | |
| | $242,491 | $25,160 | $267,651 | | |
| **EXPENSES** | | | | | |
| **Television** | | | | | |
| TV CSGs | $115,324 | $286 | $115,610 | $114,146 | $1,464 |
| TV Program Fund | $49,108 | $20,394 | $69,502 | $34,578 | $34,924 |
| **Radio** | | | | | |
| Radio CSGs | $35,878 | $321 | $36,199 | $36,144 | $55 |
| NPPAGS | $13,824 | $110 | $13,934 | $13,420 | $514 |
| Radio Program Fund | $4,266 | $386 | $4,652 | $4,210 | $442 |
| **System Support** | $13,483 | $3,663 | $17,146 | $11,332 | $5,814 |
| **Corporate Support** | $10,608 | | $10,608 | $10,468 | $140 |
| Total | $242,491 | $25,160 | $267,651 | $224,298 | $43,353 |

**FY 1990 Summary Table**

| | |
|---|---|
| Fund balance EFY 1989: | $34,205 |
| FY 1990 Appropriation | $229,391 |
| Other CPB FY 1990 Revenue | $12,896 |
| Total | $276,492 |
| | |
| Total Expenses | $224,298 |
| Obligations 9/30/90 | $43,453 |
| Property Fund 9/30/90 | $1,260 |
| | $269,011 |
| | |
| Net Fund Balance 9/30/90 | $7,481 |

**Corporation for Public Broadcasting**
**FY 1991 Budget By Activity**

| | FY 1991 Budget | Prior Yr | Total Funds | Expenses | Unexp. Balances |
|---|---|---|---|---|---|
| **REVENUES/OTHER RESOURCES** | | | | | |
| **Appropriation** | $242,060 | | $242,060 | | $242,060 |
| **Other Resources** | $9,000 | $43,453 | $52,453 | | $9,000 |
| | $251,060 | $43,453 | $294,513 | $0 | $251,060 |
| **EXPENSES** | | | | | |
| **Television** | | | | | |
| TV CSGs | $121,766 | $1,463 | $123,229 | | $123,229 |
| TV Program Fund | $47,879 | $35,416 | $83,295 | | $83,295 |
| **Radio** | | | | | |
| Radio CSGs | $37,882 | $80 | $37,962 | | $37,962 |
| NPPAGS | $14,059 | $626 | $14,685 | | $14,685 |
| Radio Program Fund | $4,326 | $479 | $4,805 | | $4,805 |
| **System Support** | $14,084 | $5,389 | $19,473 | | $19,473 |
| **Corporate Support** | $11,064 | $0 | $11,064 | | $11,064 |
| Total | $251,060 | $43,453 | $294,513 | $0 | $251,060 |

**FY 1991 Summary Table**

| | |
|---|---|
| Fund balance EFY 1990: | $52,194 |
| FY 1991 Appropriation | $242,060 |
| Other CPB FY 1991 Revenue | TBD |
| Total | $294,254 |
| | |
| Total Expenses | TBD |
| Obligations 9/30/91 | TBD |
| Property Fund 9/30/91 | TBD |
| | $0 |
| | |
| Net Fund Balance 9/30/91 | TBD |

## CPB: Number of Grantees

You mention in your opening statement that the number of public broadcasting stations has increased dramatically in the past ten years.

Q. Did the number of grantees increase as dramatically? Please break that increase down into radio grantees and television grantees.

A. The FCC has recorded that the number of noncommercial FM radio licenses, including student-operated and religious stations, has grown by 33 percent between 1981 and 1991, from 1,092 to 1,453 stations.

In 1981 CPB awarded grants to 206 public radio stations meeting CPB eligibility criteria. In FY 1991, we have awarded 358 operating grants, an increase of nearly 74 percent.

Similarly, on the television side, the number of licensed noncommercial television stations grew from 168 to 202 between 1981 and 1991, or 70 percent. During that time, the number of recipients of CPB grants grew by 20 percent. However, many of our grantees operate more than one licensed station (mostly within expanding state networks). Consequently, CPB's current list of 202 grantees represents 97 percent of all licensed, noncommercial television stations. The balance are religious stations not eligible for CPB assistance.

## CPB: Community Service Grants

Q. Mr. Ledwig, what can you tell me about the percentage of community service grants that is actually spent by stations to produce local programming (over the last five years)?

A. CPB has data for fiscal years 1985 through 1989 available. The final reports for the 1990 Community Service Grants (CSGs) are not due until November 1, 1991, and are not yet completed. The figures for 1985 do not include the salaries of programming staff. In 1986, CPB changed the format used by stations to report expenditures of CSG funds to reflect greater detail of where the funds were spent.

Percentage of CSGs Used to Produce Local Programming:

| | 1985 | 1986 | 1987 | 1988 | 1989 |
|---|---|---|---|---|---|
| TELEVISION | 10.1% | 10.89 | 7.66 | 4.98 | 3.29 |
| RADIO | 5.1% | 5.12 | 5.56 | 4.83 | 4.52 |

Q. What percentage of community service grants is spent on the purchase of foreign produced programming, such as that produced by the BBC?

A. TELEVISION:
CSG final reports do not break out program acquisition by foreign and domestic purchases. Most foreign programming that appears on public television is now produced under co-production contracts, assuring that U.S. broadcasters have some control over content and some rights to broadcast and distribution. Acquisitions of total programming account for the following percentages of CSG expenditures:

Percentage of CSGs Used to Purchase Programming, including foreign:

| 1985 | 1986 | 1987 | 1988 | 1989 |
|---|---|---|---|---|
| 25.6% | 29.92 | 31.56 | 34.47 | 37.75 |

The majority of the funds are spent to purchase programs through the Station Program Cooperative (SPC) and the Station Independence Program (SIP) with less than 8 percent currently left to acquire programs from other sources:

rcentage of CSGs Used to Purchase Programming Through SPC and SIP:

| 1985 | 1986 | 1987 | 1988 | 1989 |
|---|---|---|---|---|
| 21.7% | 26.48 | 24.61 | 26.42 | 29.89 |

RADIO:
CSG final reports do no break out program acquisition by foreign and domestic purchases. All acquisitions paid for with CSGs account for the following percentages of expenditures:

ercentage of CSGS Used to Purchase Programming, including foreign:

| 1985 | 1986 | 1987 | 1988 | 1989 |
|---|---|---|---|---|
| 5.4% | 6.9 | 17.98 | 16.43 | 16.94 |

In addition, 100 percent of the National Program Production and Acquisition Grant (NPPAG) is spent on national programming. NPPAGs account for 23 percent of all the radio funds distributed by CPB. This grant was introduced in 1988. Ninety percent of the NPPAG funds are used to acquire programming, the remainder is used to produce programming. In 1988, stations used 78 percent of NPPAG funds to purchase programming from National Public_Radio; in 1989 that number increased to 80 percent.

What percentage is spent on minority programming?

Percentage of CSGs Used to Purchase or Produce Minority Programming:

| | 1985 | 1986 | 1987 | 1988 | 1989 |
|---|---|---|---|---|---|
| TELEVISION | 2.2% | 2.59 | 3.01 | 2.95 | unknown |
| RADIO | 1.1% | 1.59 | 1.69 | 1.33 | unknown |

The 1990 reports will have expanded information on this important issue.

In addition to CSG funds expended on minority programming, a number of other CPB funded activities provide additional programming for minorities. Listed below is a summary of those programs:

## RURAL AND MINORITY PROGRAMS AND SERVICES

Since its creation in 1967, the Corporation for Public Broadcasting (CPB) has actively supported the development of rural and minority public broadcasting stations. In addition, CPB has encouraged support for multicultural programming that responds to the needs of rural Americans and minorities. Currently, this is accomplished through the following grants and programs:

## GRANT PROGRAMS

### Community Service Grants (CSGs)

CSGs constitute the largest expenditure of the CPB budget. These grants enable public radio and television stations to serve their community by providing assistance for program and program-related activities such as production equipment and facilities or to pay for satellite interconnection services. CSG criteria are established in consultation with public radio and television stations and are reviewed on an annual basis by panels composed of public broadcasting station managers.

In FY 1991, CPB awarded a total of 511 CSGs to television and radio stations or licensees, for a total of $159.2 million, or 66 percent of the Corporation's federal appropriation.

Because of the geographic reach of broadcast signals, most grant recipients, even those located in the largest markets and those in the least popluous areas, serve a mixture of both urban and rural populations (as defined by the Census Bureau). Their broadcasting facilities were intentionally designed to serve such mixed audiences. A study of the urban and rural composition of CPB grant recipients' service area populations, is in progress and is expected to be completed by late Spring of 1991.

### National Program Production and Acquisition Grants (NPPAGs)

NPPAGs are awarded to public radio stations for the purchase or production of national programming.

In FY 1991, CPB awarded a total of 317 NPPAGs to public radio stations or licensees, for a total of $12.4 million.

## SPECIAL PROGRAMS

In addition to CSGs and NPPAGs, CPB awards a wide range of grants from programming and system support funds to support projects that ensure the development, growth, and improvement of public radio and television.

During the 1988 CPB reauthorization, Congress made clear its intent that CPB continue to lead the expansion of public radio in order to make its services available to as many Americans as possible. In response to Congress, CPB has adopted new grant programs, new expansion-related projects, and the extension of certain existing CSG grantee benefits to expansion stations, including:

### Sole Service Assistance Grants (SSAGs)

SSAGs are intended to augment the capability of general audience noncommercial radio stations that provide the only full-power broadcast service to their communities. Since FY 1989, CPB has awarded SSAGs to 13 stations, for a total of $282,550. In FY 1991, SSAG grants to these stations totalled $138,450. In FY 1991, recipients included:

| | |
|---|---|
| KCUK | Chevak, Alaska |
| KIYU | Galena, Alaska |
| KUHB | St. Paul, Alaska |
| KIAL | Unalaska, Alaska |
| KNSA | Unalakleet, Alaska |
| KNNB | Whiteriver, Arizona |
| KMUD | Redway, California |
| KBUT | Crested Butte, Colorado |
| KOTO | Telluride, Colorado |
| KLNR | Las Vegas, Nevada |
| KABR | Magdalena, New Mexico |
| KSHI | Zuni, New Mexico |
| WVMR | Dunmore, West Virginia |

## Program Acquisition Assistance Grants (PAAGs)

PAAGs enable expansion stations to acquire national public radio programs, to extend the reach of public radio programming and to increase audiences for that programming. In FY 1991, CPB awarded PAAGs to 13 stations for a total of $138,450:

| | |
|---|---|
| KAJX | Aspen, Colorado |
| KDNK | Carbondale, Colorado |
| WEFT | Champaign, Illinois |
| WWQC | Quincy, Illinois |
| KKFI | Kansas City, Missouri |
| WUFM | Hattiesburg, Mississippi |
| WEOS | Geneva, New York |
| WJFF | Jeffersonville, New York |
| WCSU | Wilberforce, Ohio |
| KMUN | Asoria, Oregon |
| WNSB | Norfolk, Virginia |
| WVST | Petersburg, Virginia |
| KBCS | Bellevue, Washington |

## Station Development Grants (STEP)

STEP grants assist the establishment of new stations in unserved areas, the diversification of services, and minority controlled public radio stations to maintain and improve programming services. In FY 1991, CPB awarded 15 STEP grants for a total of $193,077. Minority or rural recipients of STEP grants include:

| | |
|---|---|
| KIDE | Hoppa, California, Native American (NA), Rural (R) |
| KZYX | Philo, California (R) |
| KVNF | Paonia, Colorado (R) (had previously received sole service grant) |
| WMMT | Whitesburg, Kentucky (R) |
| WWOZ | New Orleans, Louisiana, African American (AA) |
| WESM | Princess Anne, Maryland (AA)(R) |
| WRVS | Elizabeth City, North Carolina (AA)(R) |
| KAOS | Olympia, Washington (R) |

## Minority Station Improvement Project (MSIP)

MSIP is designed to assist minority controlled and operated radio stations to increase their managerial and operational capacity to provide local services, compete effectively in the existing radio program funding areas, and supplement national radio programming. The Corporation has allocated $1.8 million for this project. To date, $1.3 million in grants has been awarded directly to minority stations or groups. Examples of MSIPs include:

**Indigenous Community Association.** Grant project undertakes a series of national fund-raising efforts for reservation-based Native American stations.

**Hispanic Station Development Project.** Grant project designed to determine the potential effectiveness of leveraging financial support for the stations collectively and individually through a series of national, regional, and local coordinated fund-raising strategies.

**Alaska Native Stations.** Grant project designed to develop a management recruitment and training program to encourage Native Alaskans to undertake management level positions at public radio stations and also to provide management training workshops for Native American stations.

**WJSU, Jackson, Mississippi.** Grant project designed to establish a national training/internship program and production center to recruit people of color to public radio, and to provide programming by and about people of color.

**WPFW, Washington, D.C.** Grant designed to develop a model for management and operational efficiency of community stations, and to develop a unique morning service (programming) to increase time spent listening.

Other ongoing MSIP resources/services available to minority stations include:

**Information Sharing.** MSIP stations will receive regular communications about industry issues, regulations, and innovations pertinent to their operations. A regular feature newsletter will highlight accomplishments by stations and producers and will include programming news and availability.

**Production Enhancement Grants.** MSIP stations will have an opportunity to compete for one-time-only grants to assist them in placing original or existing programming into the public radio national programming marketplace on a pilot or test basis. The experience will enable producers to gather first-hand information about the marketplace and/or about the production that could be useful in future applications to major program funders.

**Management Consultation.** MSIP stations will be eligible to receive management consultation services in the areas of station development, fund-raising, programming/production, facilities design, and other areas.

Other assistance projects and grants:

**The CPB Management Consulting Service (MCS)**
This service is designed to assist with the full development of the system by providing technical assistance and management training opportunities, to encourage innovative approaches to audience building, and to increase station managerial and operational capacity. MCS provides consultants with valuable expertise in the areas of marketing, management, financial analysis, fund-raising, production/programming, promotion, engineering, and others. In FY 1991, the Corporation allocated a total of $133,560 toward this service. Some examples include:

**Consulting service to WOJB in Hayward, Wisconsin,** to explore signal extension possibilities in four new areas to reach new Native American listeners, increase the subscriber base, make budgetary estimates, and recommend the design of facilities as well as prepare technical portions of a NTIA/PTFP proposal.

**Consulting service to KBRW, Barrow, Alaska,** to explore methods to extend KBRW's signal to outlying Eskimo villages.

**Consulting service to KMXT, Kodiak, Alaska,** to conduct a technical assessment of KMXT's facilities and advise station on acceptable engineering standards and practices.

**Consulting service to Native American public radio station KMHA, New Town, North Dakota,** to analyze station engineering and maintenance problems; also, recommendations for signal expansion and completion of the station's satellite downlink.

**Consulting service to Alaska Public Radio Network** to analyze statewide audience research. The results of the analysis were presented by the consultant at the APRN Board meeting April 1991, in Juneau, Alaska.

**Consulting service to KIDE in Hoopa, California,** to evaluate the station's organizational structure and operations, outline priorities and make recommendations for future station activities.

## Downlink Assistance Project

Providing engineering consultants to Alaska stations KCUK, KIAL, KIYU, KSDP, and KUAB to conduct downlink feasibility studies and preparation of exhibits and proposals that were submitted to the National Telecommunications Information Administration's Public Telecommunications Facilities Program in January 1991.

## Signal Extension Service

This is a study that is currently underway that examines unserved areas, their populations, and the economic base needed to support services. When this study is complete, CPB will identify those public broadcast stations that could efficiently extend their signals via repeaters or translators into such unserved areas. Once stations are identified, technical signal extension assistance will be offered.

## System Development Fund

As part of the 1988 reauthorization of CPB, Congress directed that the Corporation direct its interest income toward the funding of national programming. As a result of CPB's loss of discretion over interest income, the Corporation consolidated a number of professional development and other programs into a single fund called the System Development Fund. Beginning in FY 1990, CPB has provided this fund with approximately $2 million annuallly for non-production projects that are critical to the full development of the public broadcasting system. These projects encompass three general categories: professional development, promotion of diversity, and the extension of the technical and institutional capacity of public broadcasting. Some highlights of projects supported by the System Development Fund in FY 1990 are:

**Focus News Workshop.** Alaska Public Radio Network, Anchorage, Alaska. Two intensive hands-on workshops, four days in length, that focus on the potential of local news coverage to attract listeners to public radio. One workshop has a rural focus, the other was designed for reporters and producers working in bilingual settings.

**The Training Channel.** National Public Radio, Washington, D.C. Curriculum development of three highly structured interactive courses, covering Planned Giving, Writing for Broadcast, and Financial Management. In addition, this project will produce the Public Radio Primer, a tape library covering a broad range of job functions at public radio stations. This primer is designed for stations seeking greater participation in the public radio system through system expansion efforts, minority controlled and rural stations, or those seeking initial CSG support.

**Extending the Neighborhood to Child Care.** A 15-month project utilizing Mr. Rogers' Neighborhood to determine: (1) the most effective methods of using public television preschool programs as teaching/learning tools in the daycare environment; and (2) what changes in children, childcare providers, and parents result from a variety of specialized ancillary materials, promotion, schedules, delivery systems, teacher training, etc., that encourage regular use of public television. Site selection will target children of diverse racial, ethnic, and socioeconomic backgrounds from urban, suburban, and rural settings.

**The Blueprint Project: Expansion, Diversity, and Building Capacity.** American Public Radio, in collaboration with the National Federation of Community Broadcasters and Walrus Research, is creating a model for the strategic development of two emerging stations (WRFG in Atlanta, Georgia, and WWOZ in New Orleans, Louisiana), considered to be outside the system, and which are situated in medium to major radio markets, so that they may enhance their viability in public radio. Building on principles articulated by the System Expansion Task Force, the project will have three major components: audience research, station infrastructure development, and national programming.

## System EEO Support

CPB requires that all recipients of its funds operate as equal opportunity employers and provide support toward the development of EEO practices in the system, including in FY 1990:

**EEO Assistance Program.** Provided direct support to 52 public radio and television stations and organizations to conduct affirmative action recruiting and hiring at seven minority job fairs around the country, including job fairs held by the Asian American Journalists Association, National Association of Black Journalists, National Black Media Coalition, Howard University, National Association of Hispanic Journalists, California Chicano News Media Association, and Native American Journalists Association.

**Multicultural Producers Forums.** Approximately 80 producers, 48 of whom received CPB support, participated in round-table discussions with national producers and station programming executives. The forums were held to encourage diversity in production personnel and highlight multicultural talent in programming.

**Careers in Public Broadcasting.** A booklet containing public broadcasting employment information. Over 35,000 copies have been distributed to public radio and television stations for their use in community outreach and education programs and at job fairs and career days of colleges, including many historically minority schools.

## PROGRAMMING SUPPORT

In 1968, CPB inaugurated its policy of making programming available by and about minorities and other underserved groups in the population by giving its first program grant for the production of public television's **Black Journal**. Since its inception, the Corporation has directed approximately 21 percent of its available programming funds to programs by and about minorities. CPB's persistence over the years in cultivating opportunities for multicultural productions and producers continues to show tangible results.

In the first funding round for FY 1990, 491 proposals were received; 150 were submitted by minority producers. Of the 18 projects that received funding from CPB, 10 were minority productions; seven of the 10 programs were African American; the other three were Asian American, Native American, and Latino. Examples of these include:

**The Colored Museum.** A humorous exploration of African American stereotypes, performed in eleven vignettes.

**Dancing With the Peg: The Story of Peg Leg Bates.** A documentary on the renowned one-legged black tap dancer, vaudeville star, and resort owner.

Three dramas focusing on different aspects of the African American experience, **Not Without Laughter**, **My Lord What A Morning**, and **Mrs. Chaney's Quilt**, received funding for scripting.

**Return to Rainy Mountain.** A one-hour documentary about the epic trek of the Kiowa Indians received research and development funds.

**In All My Born Days.** A coming of age comedy/drama told through the eyes of a 14-year-old African American girl.

**Black and White: Inside the Bitter Heart.** A 90-minute documentary examining the psychological landscape where blacks and white meet received research and development funds.

**El Movimiento.** This series on the history of the Latino political struggles of the 1960s and 1970s received research and development funds.

Over its 11-year existence, the CPB Television Program Fund has placed great emphasis on programming by and about rural Americans. A brief sampling includes:

**Thousand Pieces of Gold.** By Kenji Yamamoto, this is a dramatization of the true story of a Chinese pioneer woman's immigration from her rural Chinese home to an Idaho mining town.

**Days of Waiting.** A recent Oscar and Peabody winner, this documentary by Steven Okazaki is set in the rural Northwest and tells the story of three young artists whose dreams were shattered by the World War II incarceration of Japanese Americans in a Pacific Northwest internment camp.

**Seventeen Syllables.** By Emiko Omori, it is the story of an Asian couple struggling to make a life for themselves in rural northern California.

**Los Mineros.** Part of the acclaimed, **The American Experience** series, this is a documentary that tells the story of rural Arizona's Mexican American miners and their role in the labor battles that shaped American history.

**Dwellers of the Moon.** A documentary of the efforts among rural Alaskan villagers to stem the tide of suicide which has reached epidemic proportions among young people.

**Daughters of the Dust.** A feature-length drama scheduled to air within public broadcasting's **American Playhouse** series. It depicts the conflict and struggle between changing values in the 1900s as a South Carolina Gullah community family prepares to migrate to the North.

In looking forward to the next decade and beyond, CPB has adopted new procedures for awarding funds to improve the cultural diversity of programming on public television. Instead of the open solicitation process, the CPB Television Program Fund has moved toward solicitations for programs that meet identified audience needs. It has also established two minority program solicitations and a general program review. Also in 1990, an additional $3 million was set aside solely for minority productions.

The CPB Radio Program Fund supports a range of projects by and about minorities. Over its five-year history, the Radio Program Fund has selected 38 out of 82 projects (46 percent) that are by or about racial and ethnic minorities. This reflects an investment of $5.9 million or 33 percent of the funds awarded during this period.

CPB's commitment to these projects is demonstrated by the fact that the median CPB share of costs for these 38 projects is 77 percent compared to a 54 percent share for all 82 projects. Further, these figures do not include the significant funding of minority producers through umbrella series such as **Soundprint**.

CPB initiated in FY 1991 a programming research effort to ascertain public radio's programming and audience goals for the 1990s. The study will evaluate prospective programming for its effectiveness in reaching audiences that a significant number of stations seek to serve and for which current national programming is inadequate. This is the most comprehensive survey of current and proposed programming in public radio's history.

Among several funded projects through the Radio Program Fund are:

**Afropop Worldwide.** Expanded from the original Afropop series to include the cousins of African popular music from such locations in the diaspora as Haiti, Jamaica, Trinidad, Brazil, London, Paris, and New York.

**Western Horizons.** An exploration of people in rural regions of the nation's mountain west whose lives are shaped by the vast territory in which they work and live.

**Crossroads.** A weekly multicultural public affairs and arts magazine.

**Vanishing Homelands: A Search for the Roots of Displacement.** A documentary series that explores displacement and culture loss of millions of people throughout the Americas caused by international development, and agricultural and national colonization projects.

**After Columbus - Spirits of the Present: Legacy of Native America.** A documentary series commemorating the 1992 Columbian Quincentenary from the viewpoint of native peoples. The project surveys 20th century issues and the history of conflict and survival since 1492, highlighting the impact on native literature, home life, medicine, religion, land treaties, and the 1970s "red power" movements.

**Columbian Quincentenary.** Research and development project for programming that addresses the Native American perspective of the 1992 Columbian Quincentenary.

**The Annenberg/CPB Project**

The Annenberg/CPB Project launched a new funding initiative in FY 1990 -- New Pathways to a Degree -- to help colleges use technologies to better serve learners who cannot attend full-time classes. Seven projects received a total of $1.5 million, and five of those projects (for a total of $1.2 million) are focusing their efforts on rural students:

West Virginia University (WVU) has organized a statewide coalition that will make undergraduate degree opportunities available to rural adults. In cooperation with the state's higher education system, educational broadcasting authority, library commission, and satellite delivery network, WVU will use technologies to serve rural learners in their homes, at local colleges, in public schools, and in businesses.

The Oregon State System of Higher Education is developing undergraduate programs in agricultural business management, liberal studies, and nursing that will be offered to rural learners through Ed-Net, a statewide educational network. Ed-Net will connect hundreds of public schools, libraries, and colleges using satellite, two-way audio and video, fiber optics, and computers.

The University of Maine at Augusta and the Community College of Maine have linked all public higher education institutions in Maine with off-campus centers. The college will use these centers to offer courses for an Associate of Arts degree in liberal arts to rural learners. Videodiscs, computer software, and computer conferencing will be used to enrich the courses.

The Rochester Institute of Technology is developing upper division courses that will be offered to learned through remote sites 100 or more miles from the campus. The courses will use interactive technologies such as computer conferencing, picture phones, and on-line library services to help rural students structure degree programs in applied arts and sciences.

The College of St. Catherine, St. Paul, Minnesota, is making it possible for students throughout the state to work toward their degrees, especially women with career and family responsibilities who cannot attend regular on-campus classes. By using computer, fax, and video technologies to link students in their homes, businesses, or libraries with the campus, 70 percent of the school's information management degree can be completed off-campus.

Q. How about children's programming?

A. CPB does not break out this information on the final grant reports.

Q. What percentage is spent on station management salaries?

A. Stations are not permitted to use CSG funds to pay for the salaries of the minimum staff required to receive CSG support from the Corporation. This includes the first five professional radio station employees, three of whom must hold managerial and/or programming positions, and the first ten television station employees, one of whom must be the manager or chief executive officer.

The percentage of salary and benefits in programming, development, and administration for all employees paid with CSG funds equal:

Percentage of CSGs Used for Station Salaries and Administration:

| | 1985 | 1986 | 1987 | 1988 | 1989 |
|---|---|---|---|---|---|
| TELEVISION | 31.3% | 29.05 | 27.03 | 26.67 | 24.44 |
| RADIO | 47.8% | 50.78 | 45.40 | 47.01 | 45.41 |

Q. Mr. Ledwig, I'd appreciate it if you would provide for us for the record a detailed breakdown of how these community service grants are being spent.

A. The Corporation is pleased to provide the following summary of the CSG expenditures:

| | 1985 | 1986 | 1987 | 1988 | 1989 |
|---|---|---|---|---|---|
| TELEVISION | | | | | |
| Local Programming | 10.1% | 10.89 | 7.66 | 4.99 | 3.29 |
| Program Acquisition | 25.6% | 29.92 | 31.56 | 34.47 | 37.75 |
| Minority Programming | 2.2% | 2.59 | 3.01 | 2.95 | N.A. |
| Station Salaries | 31.3% | 29.05 | 27.03 | 26.67 | 24.44 |
| Totals | 69.2% | 72.45 | 69.26 | 69.08 | 65.48 |
| RADIO | | | | | |
| Local Programming | 5.1% | 5.12 | 5.56 | 4.83 | 4.52 |
| Program Acquisition | 5.4% | 6.90 | 17.98 | 16.43 | 16.94 |
| Minority Programming | 1.1% | 1.59 | 1.69 | 1.33 | N.A. |
| Station Salaries | 47.8% | 50.78 | 45.40 | 47.01 | 45.41 |
| Totals | 59.4% | 64.39 | 70.63 | 69.60 | 66.87 |

The balance of the CSG funds were spent for equipment, promotion, development, distribution, and administration.

## CORPORATION FOR PUBLIC BROADCASTING

Radio Expansion Activities for Station Support and Development

## SOLE SERVICE ASSISTANCE GRANTS (SSAG)

**Purpose:** To augment the capability of general audience noncommercial radio station that provide the only full power broadcast service to their communities of license and that do not receive a CSG or any other station support grant from CPB.

**Eligible Grantee:** For purposes of this statement, an "eligible grantee" shall be defined as an on-the-air (AM or FM) station operating under a noncommercial educational license granted by the FCC, which meets all the criteria set forth below.

The station must provide the only full power broadcast service to its community of license. This means, there are no other grade A or B television or radio signals in the community of license..

**Licensing and Power:** The station must be designated by the FCC as a noncommercial, educational radio station that is on the air, owned and operated by a public agency or nonprofit private foundation, corporation, or association, that holds a FCC license for the station.

The station must have an operating power of 250 watts or greater in the case of an AM radio station, or an effective radiated power of 100 watts or greater in the case of an FM radio station.

**Broadcast Operations:** The station's minimum operational schedule must be 12 consecutive hours per day, 6 days per week, 52 weeks per year. However, AM stations which are restricted by the terms of their licenses to less than the minimum broadcast schedule required by this policy will be eligible for assistance if all other criteria are met.

**Amount:** Equivalent to the base National Program Production and Acquisition Grant (NPPAG) plus the minimum annual public radio satellite Distribution/Interconnection fee.

## PROGRAM ACQUISITION ASSISTANCE GRANTS (PAAG)

**Purpose:** To enable stations to access and extend the reach of public radio programming and to increase audiences for that programming. The PAAG is to be used exclusively for the acquisition of national programming of high quality, diversity, creativity, excellence and innovation, with strict adherence to objectivity and balance in all programs or series of programs of a controversial nature. To qualify as a "national" program for funding from PAAG funds, a program must be in the national marketplace of public radio programming.

This program will be in effect for five years beginning FY 1991. Reconsideration of its duration will occur in FY 1994.

**Eligible Grantee:** For the purpose of this statement, an "eligible grantee" shall be defined as an on-the-air (AM or FM) station operating under a noncommercial educational license granted by the FCC, which meets all the criteria set forth below. Neither the station nor its licensee may receive a Community Service Grant (CSG) or any other station support from CPB.

**Licensing and Power:** The station must be designated by the FCC as a noncommercial, educational radio station. The station must have transmitter power sufficient to provide primary signal coverage in the community of license. Shared time stations do not fit the definition of this criterion. The station must own a satellite downlink that is operational and tuned to the public radio satellite.

The station must have an operating power of 250 watts or greater in the case of an AM radio station, or an effective radiated power of 100 watts or greater in the case of an FM radio station.

**Broadcast Operations:** The station's minimum operational schedule must be at least 12 consecutive hours per day, 6 days per week, 52 weeks per year. However, AM stations which are restricted by the terms of their licenses to daytime only operation will be eligible for assistance if all other criteria are met.

**Amount:** Equivalent to the base NPPAG plus the minimum annual public radio satellite Distribution/Interconnection fee.

## STATION DEVELOPMENT GRANTS (STEP Grant)

**Purpose:** To assist with the establishment of new stations in unserved areas, to assist with the diversification of services, and to assist minority controlled public radio stations to maintain and improve programming services.

This program will be in effect for five years beginning FY 1991. Reconsideration of its duration will occur in FY 1994.

Grantees in the program that fail to move to the next operational step, or fail to maintain the criteria for an assigned step for the full specified time period will be considered ineligible for this, or any other CPB station support grant, for a period of 24 months beginning on October 1 (12 months for minority controlled and operated stations).

**Eligible Grantee:** Public radio stations that are not affiliated with (co-licensed to, or repeaters of) a CPB-supported station, that do not receive other CPB station grants, that meet the CSG programming and broadcast schedule requirements, and that meet the criteria below within the specified time frames.

Minority controlled and operated stations must meet the same criteria, but have a seven year period over which to achieve them. Minority stations may count full time equivalent staff toward the staffing requirements.

After meeting the criteria for the applicable entry Step, stations may use the grant funds to hire an employee to qualify for the next higher STEP Grant.

**Levels:**

| | |
|---|---|
| Step 1: | 3 full-time staff (FT) and $75,000 - $149,000<br>Nonfederal Financial Support (NFFS)<br>Time Limit for Step 1: One year<br>Amount: 60% of CSG and NPPAG Base |
| Step 2: | 4 FT and $90,000 - $149,000 NFFS<br>Time Limit for Step 2: Two years<br>(Three Years for minority stations)<br>Amount: 80% of CSG and NPPAG Base |
| Step 3: | 5 FT and $91,000 - 149,000 NFFS<br>Time Limit for Step 3: Two years<br>(Three Years for minority stations)<br>Amount: 100% CSG and NPPAG Base |

**Licensing and Power:** The station must be designated by the FCC as a noncommercial, educational radio station. The station must have transmitter power sufficient to provide primary signal coverage in the community of license. Shared time stations do not fit the definition of this criterion.

The station must have an operating power of 250 watts or greater in the case of an AM radio station, or an effective radiated power of 100 watts or greater in the case of an FM radio station.

**Broadcast Operations:** The station's minimum operational schedule must be 18 consecutive hours per day, 7 days per week, 52 weeks per year. AM stations that are restricted by the terms of their licenses to daytime only operations will be eligible for assistance if all other criteria are met.

Other Radio Grant Programs

## COMMUNITY SERVICE GRANT (CSG)

**Purpose:** To augment the capability of CPB-supported public broadcasting stations to expand the quality and scope of their services to the community.

**Eligible Grantee:** For purposes of this statement, an "eligible grantee" shall be defined as an on-the-air (AM or FM) station operating under a noncommercial educational license granted by the FCC, which meets all the criteria set forth below.

| | |
|---|---|
| o Staffing - | Five full time professional staff must be employed on an annual basis. |
| o Facilities - | Sufficient office space and production space capable of simultaneous local production and origination. |
| o Programming - | Broadcast schedule must be devoted primarily to general audience programming of good quality which serves demonstrated community needs of an educational, informational and cultural nature, within its primary signal area. |
| o Nonfederal Income - | Station must raise nonfederal annual income of the minimum required for the reporting year and must be able to prove the financial viability of the station. |

**Licensing and Power:** The station must be designated by the FCC as a noncommercial, educational radio station. The station must have transmitter power sufficient to provide primary signal coverage in the community of license.

**Broadcast Operations:** The station's minimum operational schedule must be 18 consecutive hours per day, 365 days per year. However, AM stations which are restricted by the terms of their licensees to less than the minimum broadcast schedule required by the CPB policy will be eligible for assistance if all other criteria are met.

**Amount:** The amount of a grant is computed pursuant to the CSG formula adopted by the CPB Board as applied to the financial data submitted by the applicant.

**NATIONAL PROGRAM PRODUCTION AND ACQUISITION GRANT (NPPAG)**

**Purpose:** NPPAGs are to be used exclusively for the acquisition, production, promotion and distribution of national programming of high quality, diversity, creativity, excellence and innovation, with strict adherence to objectivity and balance in all programs or series of programs of a controversial nature.

**Eligible Grantee:** For purposes of this statement, an "eligible grantee" shall be defined as an on-the-air (AM or FM) station operating under a noncommercial educational license granted by the FCC, which meets all the criteria necessary to receive a CSG.

**Amount:** The amount of a grant is computed pursuant to the NPPAG formula adopted by the CPB Board as applied to the financial data submitted by the applicant.

**Radio Expansion Activities - Special Projects**

**DOWNLINK ASSISTANCE**

**CPB Goal:** To assist in the provision of diversified programming services to or by public radio stations.

**Purpose:** To provide technical assistance to CPB-supported stations requesting funds from PTFP and other such agencies to become interconnected to the public radio satellite system. Such assistance could include engineering studies and proposal writing. This program will be in effect for five years beginning FY 1991. Reconsideration of its duration will occur in FY 1994.

**Eligibility:** Stations must meet current CSG programming criteria and minimum FCC broadcast requirements, and must have no interconnection facilities. Stations may not be affiliated with (co-licensed to, or repeaters of) CSG grantees, PAAG grantees, or with STEP grantees.

**Amount:** CPB will provide technical assistance and consultation (not to exceed $5000) per station to help eligible stations interconnect with the public radio satellite system.

**MINORITY STATION IMPROVEMENT PROJECT**

**Purpose:** To assist minority controlled and operated radio stations to (1) increase their managerial and operational capacity to provide local services, (2) compete effectively in the existing radio program funding arenas, and (3) supplement the national programming marketplace for radio.

**Plan:** CPB will work fully implement the Minority Station Improvement Project's (MSIP) potential to identify station based production centers. These centers will help provide ongoing minority audience programming for the public radio marketplace.

## SIGNAL EXTENSION ASSISTANCE

**CPB Goal:** To assist with the establishment of new public radio stations or the extension of distant public radio signals into unserved areas that have the population and economic base to reasonably support the service.

**Purpose:** To provide technical assistance in determining the feasibility of extending the signals of existing CPB grantees into adjacent unserved market(s). This program will be in effect for five years beginning FY 1991. Reconsideration of its duration will occur in FY 1994.

**Eligibility:** Station must receive a CSG, must have the financial, technical and managerial capacity (as determined by CPB) to complete an extension project, and must be adjacent to a market designated by CPB, as having potential to add significant population areas to public radio's nation coverage statistics. CPB Station Relations, in consultation with CPB Policy Development and Planning, will select stations for this assistance program.

**Amount:** CPB will provide technical assistance and consultation (not to exceed $1500 per station) to help selected CSG eligible stations extend their signals via repeaters and/or translators into adjacent unserved areas.

## MANAGEMENT CONSULTING SERVICE (MCS)

**Purpose:** To assist with the full development of the system by providing technical assistance and management training opportunities, to encourage innovative approaches to audience building, and to increase station managerial and operational capacity.

**Eligibility:** Available to CPB-supported stations. MCS is a strategic planning resource that provides consultants with valuable expertise in the areas of station, market, and financial analysis, fundraising, production/programming, promotion, engineering and more.

## MUSIC ROYALTY

**Purpose:** To ensure that all CPB-supported stations have access to broadcast rights for certain musical compositions.

**Plan:** Extend the CPB funded music royalty blanket license to all stations funded by the SSAG, STEP, and PAAG in addition to CSG eligible stations.

## NATIONAL RADIO PROGRAM PRODUCTION FUND (RPF)

**Purpose:** To support national level radio program productions of high quality, diversity, excellence and innovation that are obtained from diverse sources, with strict adherence to objectivity and balance.

**Plan:** The radio fund hosts a once-per-year annual solicitation of national level radio projects that provide programming to public radio stations. Pilots and research and development projects of potential national significance are acceptable. Eligibility is unrestricted. The funding level is also unrestricted, though the average award is approximately $200,000. FY 1991 funding priorities are for projects that yield quality programming that is illuminating, inspiring as well as appealing, that takes programmatic risk, and advances public radio's mission of serving an increasing number of American. The fund invites the system to participate in an annual consultation about priorities, practices, and policies.

## SYSTEM DEVELOPMENT FUND (SDF)

**Purpose:** To encourage non-production radio and television initiatives that are critical to the full development of the public broadcasting system.

**Plan:** The SDF supports systemwide non-production projects that promote professional development, diversity, and the extension of technical and institutional capacity of public radio and public television. FY 1991 funding priorities for public radio and public television are training and research and exploration of methods for securing new income for public broadcasting. A priority targeted for radio-only is for increased availability of national public radio programming and its use by audiences nationwide. A television-only priority is to increase and diversify public television's audiences through projects related to increasing the frequency of viewing and to strengthening station ties to the community, e.g., through education and outreach. Projects are expected to extend the participation of racial and ethnic minorities in all facets of public broadcasting. There is one funding round per year. Funding levels are unrestricted and more than one project may be submitted per entity.

## EMPLOYMENT OUTREACH PROJECT

**Purpose:** To facilitate the development of affirmative action/EEO practices in public broadcasting.

**Plan:** A variety of services are offered including Job Line, (800) 582-8220 and (202) 393-1045, Talent Bank for free resume referrals, minority resume books, and public broadcasting career information publications.

**Eligibility:** All public broadcasting stations and organizations.

## EEO ASSISTANCE PROGRAM

**Purpose:** To encourage the development of diverse minority applicant pool for public broadcasting jobs.

**Plan:** CPB offers a competitive fund to partially defray the cost of recruiting at job fairs and conferences of minority professional associations and media groups around the country.

**Eligibility:** CPB-supported stations and state networks.

**Criteria for award:** Stations/state networks (i) experiencing under representation of minorities in the top four (official/manager, professional, technical, and sales) job categories; (ii) having difficulty establishing local contacts with or attracting minority applicants; (iii) recruiting at minority job fairs for the first time; (iv) projected full-time staff openings in the top four categories within 12 months, and; (v) demonstrated financial need to seek CPB assistance.

**Amount:** Reimbursement of partial expenses.

## EEO TECHNICAL ASSISTANCE

**Purpose:** To assist with the development of an Equal Employment Opportunity Program.

**Plan:** CPB's System EEO Support office serves as a resource to stations in need of technical assistance to develop their EEO program. It provides information relevant to EEO program requirements for broadcasters. Several resources are provided including an Affirmative Action/EEO Recruitment Kit, minority professional directories and recruitment contact mailing lists, sample job descriptions and announcements, employee handbooks and EEO program statements, and multicultural awareness training programs.

## NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

**STATEMENT OF CHARLES E. REID, CHAIRMAN**

**ACCOMPANIED BY:**

**ELINOR SWAIM, VICE CHAIRMAN**
**PETER YOUNG, EXECUTIVE DIRECTOR**
**MARY ALICE HEDGE RESZETAR, ASSOCIATE EXECUTIVE DIRECTOR**
**JANE WILLIAMS, RESEARCH ASSOCIATE**

### BUDGET REQUEST

Senator HARKIN. I'd like to welcome Mr. Charles Reid, Chairman of the National Commission on Libraries and Information Science.

The National Commission on Libraries and Information Science is an independent agency charged with advising Congress and the President on all issues concerning library and information policy.

The Commission's request for next year is $911,000, an increase of $179,000 over the 1991 level.

Mr. Reid, it is my pleasure to welcome you back to the subcommittee this year in your capacity as Chairman. I am happy to have you with us today to share the recommendations for improving library science in the years ahead. It is clear to me that the health of our library system and the effectiveness of the government's information transfer mechanisms are critical if we are going to head into the next century as a literate and skilled society.

I will leave the record open at this point for any comments for Senator Specter, our ranking member.

Mr. Reid, welcome. If you will introduce the people who are with you and summarize your statement, I would sure appreciate it.

### INTRODUCTION OF ASSOCIATES

Mr. REID. Thank you very much, sir.

I am Charles Reid, Chairman of the National Commission on Libraries and Information Science. I am pleased to introduce Elinor Swaim to my right, the Commission's Vice Chairman. Mrs. Swaim and I have over three decades of service as library trustees. Additionally, Mrs. Swaim has chaired the North Carolina State Library Commission, and I have been the President of the American Library Trustees Association.

On behalf of the entire Commission, including Dr. Bessie Moore, our Vice Chairman Emeritus, I wish to gratefully acknowledge the support you have given us over these many, many years.

Also with us today are Peter Young, the Commission's Executive Director, to my right; to my left, Mary Alice Hedge Reszetar, the Associate Executive Director; and to her left, Jane Williams, our research associate. I regret you do not have the opportunity to meet Jean Curtis, the Executive Director of the White House Conference on Library and Information Services. She could not join us today as she is representing the White House Conference at a meeting of the Public Library Association in San Diego.

### COMMISSION'S 20TH ANNIVERSARY

This past January, the National Commission on Libraries and Information Science celebrated its 20th anniversary at a reception held at the Library of Congress to recognize accomplishments as diverse as the publication of the National Inventory of Library Needs in 1974 and the 1990 development and adoption of the principles of public information.

### INFORMATION AS A CRITICAL NATIONAL RESOURCE

Information is increasingly recognized as our country's most critical national resource. The ability to assess, understand and use information effectively is critical to government, industry, educators, consumers, voters, and parents. The importance of library and information services in our society increases with the integration of electronic technology.

### 1991 WHITE HOUSE CONFERENCE ON LIBRARY AND INFORMATION SERVICES

Now, the first White House Conference on Library and Information Services was held in 1979. This July's White House Conference, which is planned and conducted by the National Commission, continues the work begun over a decade ago and will set the library and information policy agenda for the next 10 years.

The 1991 conference will work to formulate public policy recommendations on three themes vital to the United States: (1) a literate populace; (2) a work force with the productivity skills necessary to compete in the global marketplace of the 21st century; and (3) a knowledgeable citizenry equipped to participate actively in a democratic process on local, State, and national levels. Public awareness of this conference and enthusiasm for it are building rapidly. Thousands of Americans have and will participate in preconference activities in all the States and six territories.

### EMERGING TOPICS FROM PRE-WHITE HOUSE CONFERENCES

We expect the conference resolutions will cover a broad range of complex concerns. A few of the topics from the preconferences are: the Federal and State role in the provision of library and information services; the preservation and conservation of books and nonprint materials; literacy, including adult literacy, as well as information literacy; access to library and information services to all citizens, including special populations such as native Americans, as well as the disabled, the elderly and rural populations; international competitiveness and the role of information in a global knowledge society; intellectual property ownership in electronic network environment; national scientific and technical information dissemination policy; and last, descriptive statistics regarding library and information services.

### IMPORTANCE OF IMPLEMENTATION PROCESS

In many respects the most important work of the conference process and of the Commission will begin after the delegates return home and the final report has been submitted. The analysis, study, research, investigation and hearings required to develop plans for implementation of the conference recommendations must be accomplished to capitalize on the White House Conference investment and opportunity. The Commission must assume this work in order to continue the further improvement of library and information services for the people of the United States.

So, the agenda for the Commission in 1992 is long and full. To support that agenda, the Commission requests $911,000 for fiscal year 1992. That request is a 25-percent increase over our current appropriation of $732,000, and represents a cumulative increase of less than 1 percent per year over our initial 1970 appropriation. But this increase is essential if this independent agency is to continue to fulfill its mission and provide advice and assessment of library and information issues in order to develop and recommend overall national policies and priorities.

Public Law 91–345 capped the Commission's authorization at $750,000. That cap was established in 1970 when $750,000 seemed to be a substantial sum for a small agency. Now, 20 years later, that cap is unreasonable. We are seeking the timely passage of technical amendments to remove that authorization limit and to improve the effectiveness of the Commission's operations.

### PREPARED STATEMENT

We know that the coming year will mark the beginning of a new phase of Commission operations. I assure you that our request for 1992 is not an extravagant one. Most of the increase will allow us to restore part of our authorized staffing level, a necessity if we are to carry out our ambitious agenda. We hope the Commission can be provided the resources it needs to continue to build upon its strong record of achievement.

And I wish to thank you today for the opportunity to testify before you. And I will be glad to answer any questions you may have.

Senator HARKIN. Thank you very much, Mr. Reid, for your statement and all of you for being here.

[The statement follows:]

## STATEMENT OF CHARLES E. REID

Mr. Chairman and members of the Subcommittee, I am Charles E. Reid, Chairman of the U.S. National Commission on Libraries and Information Science (NCLIS). I am pleased to offer testimony to support the Administration's fiscal year 1992 budget request of $911,000 for the Commission.

Three general points need to be stated to form a backdrop for specific discussion of the Commission. These points are as follows:

- Rapid changes are challenging our concepts of information in society. Our failure to formulate responsive information policies will affect our ability to address serious national economic, educational, and social problems.
- Access to information resources from a wide array of sources and representing a broad spectrum of viewpoints is essential for effective citizen participation in the democratic process and is critical for the Nation's productivity, economic competitiveness, and progress.
- The United States government is this Nation's largest producer and consumer of information resources. As a consequence, the Federal government has a responsibility to manage public information resources effectively, to avoid duplication of resources, and to ensure that access to the Nation's library and public information resources meets the needs of citizens.

To carry out this responsibility, the Federal government and the library and information communities need objective advice from a group such as the National Commission on Libraries and Information Science, a permanent, independent agency of the U.S. government. The Commission can acquire and assess the facts, examine the issues, and make reasoned recommendations, with due consideration for both long- and short-term goals.

### Twenty Years of Achievement

1991 and 1992 are very important years for the Commission. Two events exemplify their importance. The first is that, last January 23 the Commission celebrated its twentieth anniversary in a special ceremony co-sponsored by the Library of Congress's Center for the Book. People from across the U.S. came to help us acknowledge 20 years of achievement and to rededicate the Commission to the continued fulfillment of our statutory mission. Our special guest that evening was First Lady Barbara Bush, who received the Commission's Twentieth Anniversary Recognition Award for her work promoting literacy. Appended to my written testimony are highlights of the Commission's achievements in its first twenty years.

Major programs ongoing in FY 1991 include the following:

**Information Policy.** Hearings and interagency work on access to public information culminated in the Commission's development and 1990 adoption of the Principles of Public Information (Appendix B), based on the premise that "public information is information owned by the people, held in trust by their government." The Principles were published the Federal Register. Publicizing and encouraging the Principles' use at all levels of government are ongoing.

**Library Statistics.** In 1988 NCLIS began a project for the National Center for Education Statistics (NCES) to collect and make available statistics on all U.S. public libraries, based for the first time on standard terms and definitions and transmitted to NCES in machine-readable form. Work is also underway to improve the timeliness and quality of statistics from school library media centers and college and university libraries and to plan for collecting State library agency and Federal library data.

**Library and Information Services to Native Americans.** After a 1989 hearing in New Mexico, NCLIS formed a task force to address the issues related to the library and information needs of Native Americans. Regional hearings in 1989-1991 are generating information and statistics for a long-range plan (draft in Appendix C) to improve services for this special population.

**Information Literacy.** Following the cosponsored 1989 symposium on information literacy and education for the 21st century and 1990 publication of the symposium's proceedings, NCLIS continues to urge adoption of principles and practices to restructure the learning process into resource-based, lifelong education.

**International Programs.** NCLIS, at no cost to the State Department, continues to monitor and coordinate proposals submitted to the State Department for International Conventions and Scientific Organizations Contribution (ICSOC) grants. This program supports the continuation of international library, information, and archives projects which were funded under UNESCO.

## White House Conference on Library and Information Services

As pleasant as it is to review ones accomplishments, it is exciting to look forward and meet new challenges. We are doing that with the second event that exemplifies the importance of 1991 and 1992 for the Commission: that is, the White House Conference on Library and Information Services.

Information is increasingly recognized as our country's most important national resource. Our ability to access, understand and use information is critical to government, industry, educators, consumers, voters, parents -- all Americans. The importance of library and information services to our society has long been recognized. The first White House Conference dealing with library and information services was held in 1979. This July's White House Conference continues the work begun over a decade ago and looks forward to library and information policies that will affect the next decade.

The 1991 Conference will work to formulate public policy recommendations on three issues critical to the United States: a literate populace, a workforce with the productivity skills necessary to compete in the global marketplace of the 21st century, and a knowledgeable citizenry fully equipped to participate actively in our democratic society at the local, State and National levels.

A White House Conference affords the American public the unique opportunity to play a hands-on role in the public policy-making process. Over the past 12 months thousands of Americans have been doing just that in preconference activities in all 50 States, the U.S. territories, and special preconferences for Native Americans, for Federal libraries, and for library networks and networkers. Participants include the general public, government officials, educators, library users and trustees, and libary and information professionals.

Joining the 600 official delegates from the States and territories at the White House Conference will be at-large and honorary delegates, plus many observers and volunteers. Among our honorary delegates will be the members of the U.S. Congress; heads of library, information and governmental associations; and international guests.

Awareness of this Conference and enthusiasm for it are high. Executive Director Jean Curtis and the Conference staff are working in close cooperation with the Commission's Executive Director Peter Young and his staff, to assure that the many

Conference objectives are met. The Conference must be economically and efficiently run, but it must also be responsive to the concerns of all the people who will send these Conference delegates to Washington. It is a top-level conference; it is also our job to assure that it is a top-notch conference.

## Agenda for the 1990's

Public Law 100-382 states, "The purposes of the White House Conference on Library and Information Services shall be to develop recommendations for the further improvement of the library and information services of the Nation and their use by the public. . ." The law also provides, "The Conference shall be planned and conducted under the direction of the National Commission on Libraries and Information Science."

The first direct product of the Conference will be a final report, containing the findings and recommendations of the Conference delegates. In many respects, the most critical work of the Conference will begin after the delegates have returned home and the final report has been submitted - that is, the analysis, study, research, investigation, hearings and development of policies and plans required to implement the Conference recommendations. These recommendations will help shape the agenda for library and information services in the United States in the 1990's and will determine the National Commission's agenda for this decade and beyond.

Obviously, we cannot predict exactly what the findings and recommendations of the White House Conference will be. However, we expect that the resolutions adopted will cover a broad range of concerns. The post-Conference agenda that the Commission must coordinate for the country will include complex issues, many of which are a function of the changing worlds of information and technology.

For example, two of the High-Performance Computing bills introduced in Congress this session - S. 272 and H.R. 656 - provide for a National Research and Education Network (NREN). Last year, Commission staff worked with representatives of the library and information community and with Congressional staff to see that the proposed NREN legislation was broad-based and included libraries and educational institutions generally as contributors to and users of such a network. That kind of work must continue in order to assure the widest possible benefit from this opportunity.

The Commission must also support the development of policies and plans to deal with issues such as the following:

- Federal role in providing library and information services;
- Preservation of print and non-print materials;
- Information literacy, resource-based learning, and the role of library and information services in a learning society
- International competitiveness and the role of information in a global knowledge society;
- Price increases for all types of library and educational materials, but especially scientific and technical journals;
- Intellectual property ownership in an electronic network environment;
- Scientific and technical information policy;
- Scholarly, technical, and scientific communication effectiveness.

As the responsible agency, the NCLIS must be prepared to see that the Conference's results are implemented. No other agency or group has the unique mandate of the Commission and no other agency or group can fill the void if the National Commission on Libraries and Information Science is not equipped to act on the Conference's results.

## The 1992 Commission Budget Request

The agenda for the Commission in 1992 is long and full. To support that agenda, the Commission requests $911,000 for fiscal year 1992. That request is a significant increase ($179,000 or 25 percent) over our current appropriation of $732,000. The increase is essential if this agency is to fulfill its mission and provide the kind of independent advice and assessment of information issues that I have described.

P.L. 91-345 caps our authorization at $750,000. That cap was established in 1970, when $750,000 seemed a substantial sum for a small agency. Now, 20 years later, that cap is unreasonable; we are seeking the timely passage of the technical amendments, now under consideration by OMB, which would remove that authorization limit.

Funding for the Commission has been at or just under $750,000 for the past three years. We know that the coming year will mark the beginning of a new phase of

Commission operations. It is this Commission and no other that will have the responsibility to oversee the implementation of the recommendations of the White House Conference. It is this Commission that must work with the broader library and information community across the country and internationally, as exemplified by the White House Conference, to bring leaders together to discuss plans for addressing the challenges facing users and providers of library and information services. To do all of that will require increased resources.

I assure you that our request for 1992 is not an extravagant one. Most of the increase will allow us to restore our authorized staffing level -- a necessity if we are to carry out our ambitious agenda. Although we have a ceiling of 12 positions, recent appropriation levels have forced the Commission to reduce staff in order to meet ever increasing operating costs. Our 1992 request is an attempt to reverse that recent trend and will permit us to restore our complement of professional staff to the pre-1990 level and to expand the work of Commission members. We would appreciate your positive consideration of this budget request in order to provide the resources needed for the Commission to continue to build upon its strong record of achievement.

Thank you for the opportunity to testify before you today. I will be glad to take any questions you have.

## Highlights of Achievements

| | |
|---|---|
| 1991 | Conduct of the second White House Conference on Library and Information Services |
| 1990 | Development and adoption of the "Principles of Public Information," affirming that public information is information owned by the people and held in trust by the government |
| 1989 | Cosponsorship of the symposium, Information Literacy and Education for the 21st Century |
| 1988 | Kickoff of cosponsored National Library Card Campaign |
| 1987 | Adoption of Glenerin Declaration, statement resulting from 3 trilateral (Canada, U.K., U.S.) meetings on the role of information in the economy |

| | |
|---|---|
| 1986 | Signing of agreement with ACTION to promote the improvement and better use of library and information services to the elderly through voluntary activities |
| 1985 | Coordination of a joint congressional hearing on the changing information needs of rural America |
| 1984 | Publication of the report of the Blue Ribbon Panel on information policy implications of archiving satellite data |
| 1983 | Beginning of work with the State Department on alternative mechanisms to UNESCO to further international programs in library/information/archival areas |
| 1982 | Issuance of proceedings of hearings and development of the report from the NCLIS Task Force on Library and Information Services to Cultural Minorities |
| 1981 | Publication of report of NCLIS Task Force on Public/Private Sector Relations |
| 1980 | Work with Congress to amend existing library and information science legislation, based on WHCLIS resolutions, and on oversight hearings on the LSCA |
| 1979 | Conduct of the first White House Conference on Library and Information Services |
| 1978 | Cosponsorship of consulting skills institutes for state library agency personnel |
| 1977 | NCLIS task forces' examination of 3 issues: the role of school libraries in a national network, computer network protocols, and standardization efforts for library services |
| 1976 | Issuance of the National Inventory of Library Needs and of the report on the role of the Library of Congress in the national network |
| 1975 | Work with the Congress, the Register of Copyrights and others to resolve copyright issues and revise legislation |
| 1974 | Study of the continuing education needs of library and information science personnel and recommendation to form the Continuing Library Education Network and Exchange |
| 1973 | Hearings to develop a national program for library and information services |

| | |
|---|---|
| 1972 | Beginning exploration by an NCLIS committee of the application of new technology to library and information services |
| 1971 | Conduct of the first meeting of the Commission on September 20-21, 1971 |
| 1970 | Signing by President Nixon of P.L. 91-345 to establish the U.S. National Commission on Libraries and Information Science as a permanent, independent agency in the Executive Branch |

## Principles of Public Information

### PREAMBLE

From the birth of our nation, open and uninhibited access to public information has ensured good government and a free society. Public information helps to educate our people, stimulate our progress and solve our most complex economic, scientific and social problems. With the coming of the Information Age and its many new technologies, however, public information has expanded so quickly that basic principles regarding its creation, use and dissemination are in danger of being neglected and even forgotten.

The National Commission on Libraries and Information Science, therefore, reaffirms that the information policies of the U.S. government are based on the freedoms guaranteed by the Constitution, and on the recognition of public information as a national resource to be developed and preserved in the public interest. We define *public information* as information created, compiled and/or maintained by the Federal Government. We assert that public information is information owned by the people, held in trust by their government, and should be available to the people except where restricted by law. It is in this spirit of public ownership and public trust that we offer the following Principles of Public Information.

**1. The public has the right of access to public information.**

Government agencies should guarantee open, timely and uninhibited access to public information except where restricted by law. People should be able to access public information, regardless of its format, without any special training or expertise.

**2. The Federal Government should guarantee the integrity and preservation of public information, regardless of its format.**

By maintaining public information in the face of changing times and technologies, government agencies assure the government's accountability and the accessibility of the government's business to the public.

**3. The Federal Government should guarantee the dissemination, reproduction, and redistribution of public information.**

Any restriction of dissemination or any other function dealing with public information must be strictly defined by law.

**4. The Federal Government should safeguard the privacy of persons who use or request information, as well as persons about whom information exists in government records.**

**5. The Federal Government should ensure a wide diversity of sources of access, private as well as governmental, to public information.**

Although sources of access may change over time and because of advances in technology, government agencies have an obligation to the public to encourage diversity.

**6. The Federal Government should not allow cost to obstruct the people's access to public information.**

Costs incurred by creating, collecting and processing information for the government's own purposes should not be passed on to people who wish to utilize public information.

**7. The Federal Government should ensure that information about government information is easily available and in a single index accessible in a variety of formats.**

The government index of public information should be in addition to inventories of information kept within individual government agencies.

**8. The Federal Government should guarantee the public's access to public information, regardless of where they live and work, through national networks and programs like the Depository Library Program.**

Government agencies should periodically review such programs as well as the emerging technology to ensure that access to public information remains inexpensive and convenient to the public.

## CONCLUSION

**The National Commission on Libraries and Information Science offers these Principles of Public Information as a foundation for the decisions made throughout the Federal Government and the nation regarding issues of public information. We urge all branches of the Federal Government, state and local governments and the private sector to utilize these principles in the development of information policies and in the creation, use, dissemination and preservation of public information. We believe that in so acting, they will serve the best interests of the nation and the people in the Information Age.**

---

TO: NCLIS Members June 20, 1990

FROM: Lee Edwards, Chairman,
Ad Hoc Information Policies Committee

SUBJECT: **Report to Accompany Proposed Principles of Public Information**

### Background

NCLIS has been concerned with national information policy issues since the 1970s, when the Rockefeller report was published and distributed by the Commission. Following the publication in 1988 of the Office of Technology Assessment's report, Informing the Nation: Federal Information Dissemination in an Electronic Age, and the Office of Management and Budget's proposed revisions to Circular A-130 (Management of Federal Information Resources), the Commission revitalized its activity in this area.

In July 1989, the Commission held a public hearing on the OTA report. Fourteen panelists from government, libraries, business, academe, and public interest groups presented their views. The objectives of the hearing were to solicit comments from providers and users of government information regarding the OTA report, to increase public awareness of the report's existence and substance, and to gather information to assist in developing a response from NCLIS to the report, possibly in the form of recommendations to be presented to the President and Congress, and to the information community.

Participants in the hearing urged the Commission itself to take a significant role in the development and promulgation of information policies. After considering the matter, the Commission decided that it should indeed increase its activities in this area. Specifically, the

Commission began a process of systematically examining issues related to information policies, and bringing together the various stakeholders and interested members of the public in an attempt to identify and coordinate mutually acceptable approaches to these issues.

A public forum was held on October 11, 1989, at which the three discussion topics were "Technology and Proprietary Rights - Using Public Domain Information in the Private Sector," "Technology and Public Access to Information," and "Identification of Information Policy Issues." The respective discussion facilitators were Kurt Steele, Vice President and General Counsel, Standard and Poor's; Warren J. Haas, President, Council on Library Resources; and Duane Webster, Executive Director, Association of Research Libraries. From this public forum and its immediate aftermath came a conclusion that the most important contribution NCLIS could make in the information policies area at this time would be to attempt to develop a consensus among all interested parties as to the basic, underlying principles that should shape all decisions in and out of government regarding information policies, procedures, and practices.

## The Information Principles Task Force

The first step in seeking to implement this conclusion was to create a task force including a broad range of interested parties to assist the Commission's Information Policy Committee. Its members were Kenneth Allen, Information Industry Association; James Benn, NCLIS staff; Thomas Brown, Center for Electronic Records, National Archives and Records Administration; Joseph Coyne, Office of Scientific and Technical Information, Department of Energy; Robert Dugan, Delaware State Library; John Ganly, New York Public Library; Mary Ghikas, Gaylord Brothers; Elinor Hashim, OCLC; Brian Kahin, Kennedy School of Government, Harvard University; Bruce Kennedy, Georgetown University; Donald King, King Research; Nancy Kranich, New York University; Susan Martin, Executive Director, NCLIS; Molly Raphael, Martin Luther King Library, D.C.; Patricia Schuman, Neal-Schuman Publishers; Quinlan J. Shea, Jr., National Security Archive/Center for Citizen Access to Government Information; Timothy Sprehe, Office of Information and Regulatory Affairs (OIRA), Office of Management and Budget (OMB); Jack Sulzer, Pennsylvania State University Library; Mark Vonderhaar, Congressional Information Service; Duane Webster, Association of Research Libraries; Christine Wegman, House Subcommittee on Science, Research, and Technology; Forrest Williams, Bureau of the Census; Fred Wood, Office of Technology Assessment; and Elizabeth Yeates, Interior Department. We owe a great deal to the members of the task force and, in some instances, their representatives, for the time they invested in this project. A special thanks must go to Sue Martin and Messrs. Benn, Dugan, Shea, Vonderhaar, and Williams, who worked with me on the task force's language drafting committee.

The full task force met on November 20 and December 20, 1989. The language drafting committee met on December 8, 1989, and January 4, 1990. There was an extensive discussion on points that might be addressed in a set of principles of public information. Two "rules" were quickly adopted by the group: first, this effort should be strictly limited to basic principles, and not seek to deal with policies, procedures, and practices that might be adopted either on a government-wide basis, or in individual agencies; and, second, the principles should be worded "neutrally," that is, they should be stated in such a way as to confer no advantage on one group of stakeholders or another in the disputes that are certain to arise when the principles are considered (and, we hope, applied) as those policies, procedures, and practices are formulated. These two "rules" ultimately enabled the task force to bring a high degree of order out of what had certainly been chaos.

Many different organizations had previously formulated principles of public information. To a remarkable degree, those formulations were consistent from one to another -- spanning even the public and private sectors -- once the provisions included to further the specific goals of each particular organization were eliminated. We will happily plead guilty to plagiarism regarding our use of the common elements of all of these previous efforts.

The principles prepared by the language drafting committee during and after its meeting on January 4 were sent to all members of the task force for review, prior to contemplated publication in the Federal Register and consideration at another public forum. Numerous members of the task force indicated affirmatively their satisfaction with the committee's work. Five members indicated overall agreement, but suggested possible changes. These suggestions were both substantive and conflicting. Under those circumstances, it was concluded that another meeting of the full task force would really be necessary if any of these suggested changes were to be adopted, that time and constraints made that impractical, and that they would be considered along with comments received during and after the public forum.

In mid-March, Jim Benn resigned from the Commission staff. Quin Shea was retained as a consultant to work on the project, and Jane Williams of the NCLIS staff was also assigned to it.

## The Public Forum

The draft principles were published in the Federal Register on April 5, 1990. The public was informed that the Information Policy Committee would conduct a forum on April 30, from 9 a.m. until 12 noon, in the Secretary's auditorium in the Department of Labor. In addition to the official notice, extensive outreach activities were conducted. Direct mailings and telephone calls were made to members of the information industry, the library community, and the private not-for-profit sector, as well as to many federal agencies. The fact that the forum was to be held was noted in numerous association newsletters, and was the subject of an article on the "Federal Page" of The Washington Post on April 23, 1990.

There was an excellent turnout for the public forum. Seventy-six persons either signed in, or were identified as they made comments. Thirty-four of them were representing federal agencies, including many librarians, archivists, and persons involved in either information policy formulation or information resources management. There were ten persons representing the information industry, and six with library organizations. There were six non-federal librarians, representatives of six private not-for-profit organizations, and four interested citizens. Lastly, Chairman Reid, Commissioner Taylor, and I represented NCLIS, with Susan Martin, Mary Alice Hedge Reszetar, Jane Williams, Chris Young, Sandy Milevski, Quin Shea, and Linda Resnik of the staff.

There were many suggestions made by persons attending the forum, some quite general, others quite specific. The most significant, overriding aspect of all of the comments is that there was no opposition to what we were about. For example, Toni Carbo Bearman, Dean of the School of Library and Information Science at the University of Pittsburg and President of the American Society for Information Science (ASIS), commended the Commission for taking on such a difficult, challenging, and critical task. She added, "I think you have done a superb job."

Many of the specific comments "violated" one or both of the "rules" we had adopted: either they went beyond basic principles to matters of policy, procedure, or practice, or they tended to give one group of stakeholders or another an advantage at the implementation stage. Many more comments simply sought to strengthen or clarify the draft principles An example was Lisa Shaffer of NASA, who said that she wanted to support the idea of limiting the restrictions as much as possible.

In the course of the forum, a clear tendency developed in favor of making the final version of the principles much stronger and less equivocal. There was obvious agreement throughout the auditorium when Ken Allen of the Information Industry Association said, "As we heard earlier from Dr. Bearman, the results of this effort will receive widespread distribution to those who are interested in these issues. I would, therefore, urge the commission to issue principles that are clear, strong, and unambiguous. Leave it to others to find the exceptions, exemptions, and loopholes, . . . ." The complete transcript of the public forum is one of the attachments to this Report being provided to the Commissioners.

## Written Comments

For all practical purposes, the analysis of the comments made at the public forum applies as well to the written comments that were received. Particularly supportive were comments received from the Chief Officers of State Library Agencies, the National Association of Government Communicators, the Chairman of the Depository Library Council, OMB Watch, People for the American Way, the American Library Association, and the National Coordinating Committee for the Promotion of History. Most comments from federal agencies tended to be rather specific in nature, but, even here, the comments were supportive of our effort and sought to clarify or strengthen the draft principles.

Copies of all written comments received are also being provided to the Commissioners with this Report.

## Other Comments

At my specific request, Quin Shea discussed the draft principles with Fred Wood of the Office of Technology Assessment, who was a member of our task force, and Frank Reeder, Director of Information Policy, OIRA, OMB. His meeting with Mr. Reeder also included Timothy Sprehe, a Senior Policy Analyst in OIRA and another member of our task force.

Dr. Wood believes that the "package is great" and he is fully supportive of our effort. He also suggested making the principles clearer, stronger and less ambiguous. He particularly urged that NCLIS adopt the principles at its June meeting, so that Congress can consider the principles later this year.

Mr. Reeder stressed his own view that the principles were good, but that they were written in overly equivocal terms. He urged that they be rewritten in stronger, less equivocal language. Out of a lengthy discussion of the individual principles came a "blind" memorandum addressed to Quin Shea that was prepared by Mr. Sprehe. Because we relied quite heavily on the suggestions it contains, we sought and obtained Mr. Sprehe's permission to identify him as the author and to make the document available to the Commissioners.

## Conclusion

By and large, the "Principles of Public Information" now proposed for adoption by the Legislative/Information Policies Committee and the Commission as a whole reflect the consensus view that we should call in unequivocal terms for the maximum possible public access to public information. Nothing in the principles as proposed will undercut any lawful authority for an agency to deny access to rquested information. We hope, however, that where an agency has discretion under the law to release information, and where release in a given case would do no harm to the public interest, that that discretion will be exercised in favor of disclosure.

We realize that there are many questions that are not answered by these principles, such as what does or does not constitute excessive cost in the context of a particular agency at a particular time. These questions can only be answered at the level of government-wide policies established by Congress and the Office of Management and Budget, or as information policies are formulated within individual agencies. Although we believe that NCLIS should continue to be active in this area, and participate in the formulation of those information policies, it is not appropriate that we attempt to do so in this document. There is a broad and deep consensus that the more limited role we assigned ourselves in this project is one of great importance and value to the American people. Our basic concept -- that information held by the government belongs to the people, and is held by the government in trust for the people -- is a worthy one, the adoption and promulgation of which by this Commission will be of significant, enduring value.

It is in that spirit that I urge your approval of these "Principles of Public Information."

## WHITE HOUSE CONFERENCE

Senator Harkin. So, the White House Conference is well on track, and it is going to happen in July. Is that right?

Mr. Reid. It is going to happen in July, sir.

Senator Harkin. Are there any problems that I ought to know about?

Mr. Reid. There are no problems that we cannot overcome, sir. There are always problems in getting almost 3,000 people together in one form or another.

Senator Harkin. So, you are going to have about 3,000 people?

Mr. Reid. Well, we have 648 delegates and 280 alternate delegates. And, of course, judging by the last conference, we anticipate observers and members of the public who will participate and Members of Congress, and we will have probably close to 3,000 people who are part of that operation.

Senator Harkin. How many days?

Mr. Reid. The 9th through 13th. It's 4½ days.

## JOINT CONGRESSIONAL HEARING

Senator Harkin. What activities do you have planned that will be taking place up here on the Hill? I know it is a White House Conference, but this is where the laws are written and the money is——

Mr. **Reid**. There will be one afternoon of the Conference devoted to hearings to allow the participants who represent the general public, in addition to the delegates, to have input in the process as well.

Mr. **Young**. Senator, we are planning for a joint congressional hearing within the context of the Conference itself.

Senator **Harkin**. At that time.

Mr. **Young**. Yes, sir.

Mr. **Reid**. We know of no hearings here on the Hill, but we are working to have a joint congressional hearing on site at the Conference.

Senator **Harkin**. Who will be having those hearings?

Mr. **Young**. I believe that Jean Curtis, the Executive Director of the White House Conference, has been in touch with staffs from the other body who are represented on the advisory committee to the White House Conference. I believe that is Representative Goodling and Representative Owens and Representative Ford. Their staffs are working with the Senate.

Mr. **Reid**. They are the three Congresspersons who were appointed to the White House Conference Advisory Committee.

Senator **Harkin**. I see.

Again, with all those people here, it would be a good time to get some attention here from Members of the Senate and the Congress on libraries and what you are doing. I just wonder what kind of focus you might have to get the attention of people here on the Hill.

Mr. **Young**. Well, I think that the interest that Jean Curtis has found in visiting with several of the Congressmen and their staffs has been quite high, and I think that she is anxious that those staffs work together to help us coordinate a joint hearing. After the Conference itself, of course, the report will be presented to the President and to Congress with recommendations from the delegates representing every State and territory at the Conference.

Senator **Harkin**. I understand.

I might have my staff contact you about some thoughts on that.

Mr. **Reid**. That would be fine.

Ms. **Reszetar**. Mr. Chairman, as you probably recall, one of the highlights of the 1979 conference was the joint congressional hearing at the hotel during the White House Conference, and it was very well represented from both the House and the Senate sides. It was truly one of, if not the, highlight of the whole Conference. As a result of that, there was speedy implementation of the resolutions that came out of the Conference. For example, there were parts of 22 of the resolutions included in the reauthorization of the Library Services and Construction Act following the White House Conference because of the participation of key Congressmen and Senators at that hearing.

### BOOKMOBILES

Senator **Harkin**. Mr. Reid, during my first year as chairman of the subcommittee 3 years ago, I raised the issue of bookmobiles——

Mr. **Reid**. Yes, sir.

Senator **Harkin** [continuing]. And other services to expand access to libraries for individuals in small towns and rural areas. I was informed that the Commission was promoting a 3- to 5-year program funded by the Kellogg Foundation to improve access to rural libraries in mountain States.

What is the status of this program?

Mr. **Reid**. I would like to mention two things, Mr. Chairman, if I may. One is the statistical program that we have been working on has for the first time given us some really fine information about public library statistics, and I have a copy in front of me. For example, in your own native State of Iowa. The survey reports that there were eight book mobiles at the time the data was collected.

Senator **Harkin**. Eight?

Mr. **Reid**. Eight. Previous to FSCS, we were unable to identify the numbers of bookmobiles, State by State. I can show you graphs and bars and some other statistics.

Senator **Harkin**. You say there are eight operating now?

Mr. **Reid**. That's correct. That's what our statistics show. There are only eight operating.

## LIBRARY AND INFORMATION SERVICES TO RURAL AMERICA

The other problem we have and probably a much broader problem is the whole service to the specialized population in rural America. With the new technology, it gives us great new opportunities to reach out with those services not only through things such as bookmobiles, but through communication systems. Obviously, that is costly, and it is something that has to be done through the State with possible assistance of the Federal Government or some stimulus from the Federal Government to effectively give equal opportunity of access.

## EQUAL OPPORTUNITY OF ACCESS

We have the technology right now to bring access into every single rural area that we have. We have the technology. Now we have to develop the atmosphere and, in some cases, the dollars, but more important is the atmosphere to say, yes, they must have equal opportunity of access. I consider that one of the largest challenges before the National Commission and the White House Conference—how to reach out and make sure that every American, regardless of where they are, has equal opportunity of access to information and library materials. Not an easy job, and it is going to take some time and planning.

In the 1979 White House Conference process, one of the important outcomes of that Conference was to really identify and to begin to spearhead the proliferation of library systems, and that was primarily public library systems. We now have academic libraries, special libraries, and all of the types of libraries tied into the new technologies.

If we do not reach out and let this be accessible to everyone, then it becomes an information poor/information rich society, which we are very much concerned about at the Commission. I, personally, consider that to be the greatest challenge of the 1990's. One that takes a lot of direction and consideration by all persons involved, not just the Commission itself.

### NATIONAL LITERACY GOALS

Senator **Harkin**. I understand that.

My last question has to do with the administration's national education goals and the goals that were established last year by the National Governors Conference. Six national performance goals. One was a goal of national literacy by the year 2000. One in terms of education was—the first goal, as a matter of fact, of the national governors was that every child by the year 2000 will be ready and able to learn by the time they reach kindergarten.

Can you briefly say what role the libraries could play in helping us achieve it? I guess we could go on for a long time on that. I guess more specifically what I am asking is are you developing an action plan to integrate libraries into these national goals?

### IMPORTANCE OF READING TO CHILDREN

Mr. **Reid**. I have to put things on a more personal note, if I may, Senator. One of my most serious interests and concerns is to more clearly identify the role of libraries in the educational process, particularly in the case of early education where it involves the child. A good deal of early education begins with the parent and the child at a library, being involved in anything from a story hour to encouraging the parent to take a book home and read it to the children. I believe that real literacy starts there. Unless we can begin to develop that love for and also the ability to read, then we will never have true literacy in this country. That is not to mention the fact that we have 600,000 immigrants coming into this country this year that we have to bring into the mainstream of our system through literacy instruction programs. And then of course, there are the many functionally illiterate whom we have to reach.

### EDUCATION THROUGH THE USE OF TECHNOLOGY

It is an impossible task to identify in simplistic terms, as you well know, and it is essential to coordinate libraries with educational facilities. But the communications systems that I just mentioned, the ability to become educated through the use of technology available today will give us the ability to educate that never before existed and education will be accomplished though not necessarily through formal educational institutions as we now know them. That is our challenge, and I'm excited about it. I hope you are too.

Senator **Harkin**. I am. Thank you very much.

Senator **Specter**. Mr. Chairman, if I might say just a word——

Senator **Harkin**. Senator Specter.

Senator **Specter** [continuing]. On support for the efforts of the Commission on Libraries and Information Science.

### IMMIGRANTS' APPRECIATION FOR EDUCATION AND READING

You talk about accommodating immigrants. My parents were immigrants and have instilled in their children an appreciation for education. It had a great impact on my sister, Shirley Specter Ketty, who is a librarian and is 3 years older than I am. She has made a career of library science and is a practicing librarian today in the Elizabeth, NJ, school system. From my earliest days I recollect that my sister Shirley always had her nose in a book. She worked at Pepper Hall in Philadelphia.

### PAUCITY OF LIBRARY BUDGETS

She always takes me to task for the paucity of the budget for libraries. But Senator Harkin and I do the best we can on stretching a very few dollars as far as we can.

Mr. Chairman, while I have the floor, if I might say just a word or two about the next panel because I have to go to the floor.

Senator **Harkin**. Well, do you have any questions?

Senator **Specter**. No.

### QUESTIONS SUBMITTED BY THE SUBCOMMITTEE

Senator **Harkin**. I'll bring the next panel up. I have no further questions. Thank you very much for being here. Keep up the good work. I look forward to working with you on the White House Conference.

There will be some additional questions which will be submitted for your response in the record.

[The following questions were not asked at the hearing. but were submitted to the Commission for response subsequent to the hearing:]

## QUESTIONS SUBMITTED BY THE SUBCOMMITTEE

### White House Conference

MR. HARKIN: I'm aware that planning for the second White House Conference on Library and Information Services in July is now underway. I understand the Commission has used the $5.5 million in Federal funding provided for the conference to organize the Washington portion of the activities, as well as various regional meetings at the state and local level.

I know it is difficult to predict the specific recommendations resulting from the Conference, but would you please explain some of the broad issues that are likely to be focused on by the conferees?

MR. REID: The White House Conference staff has been receiving recommendations from the 59 state pre-conferences over the past several months and categorizing them into broad topic areas such as networking, access, governance, personnel, national information policies, preservation, and technologies. These recommendations from the pre-conferences will be refined and consolidated to form draft statements for consideration at the National Conference this summer.

We expect a large number of recommendations resulting from the White House Conference to address needs of various special populations and groups for improved library and information services. Those groups include business people, children, the economically and socially disadvantaged, rural and inner-city residents, cultural and ethnic minorities, governmental officials, the institutionalized, the mentally or physically challenged, educationally disadvantaged, Native Americans, senior citizens, researchers, and students. As our Nation's educational, social, and economic environments change, so do the citizens' need for access to information resources in an increasing variety of forms. As information technologies for the creation, distribution, and use continue to advance, so also have the opportunities for expanding library services and enhancing the variety and wealth of information services available to the people of the Nation.

We also expect that participants in the White House Conference will give careful attention to understanding the complex issues related to the changing nature of information in society. We have the opportunity to explore new ways of transmitting ideas, thoughts, and human expression to represent knowledge more effectively. These concerns raise issues of intellectual property ownership; the balance between economic incentive for information providers and the public's right to open and unincumbered information access; preservation of the rapidly deteriorating book collections in libraries; resource-sharing among institutions; the emerging national digital communication network; censorship and privacy issues; international information standards; the electronic creation, production, and dissemination of information; and policies relating to depository systems for the distribution of information produced by government, including the Federal Depository Library Program.

The 1985 report to NCLIS from the White House Conference Preliminary Design Group stated, "Libraries are information agencies in an information society. They are indispensable to the economic well being of our nation. Research and development depends upon access to information. Libraries are needed by industries, business, and government as they deal with the need to increase productivity and adapt to new technology."

Libraries and information centers have had a long history involving the application of information technology to internal and external functions. As a consequence, these institutions must cope with the challenges of the "information age" and the "information explosion." We need to learn to manage information in ways that recognize the strategic nature of our intellecual resources. Librarians and other information professionals understand and appreciate the increasingly global nature of information technology and productivity issues. The global nature of these issues requires that the U.S. national policy and programs reflect those rapid changes which are reshaping the international economic and information technological environment. Adapting to these changes requires that libraries and other information-related organizations examine their missions and evolve strategies for adapting in response to changes and challenges. With library and information services for productivity as one of its major themes, the White House Conference is certain to deal with the volatile twin issues of technology and productivity.

MR. HARKIN: What mechanisms does the Commission have in place to translate the resulting recommendations into a specific "action plan" for implementation at the state and local level?

MR. REID: First, the Commission will provide advice to the Congress and the President in the form of a White House

Conference Report containing the Conference recommendations. NCLIS plans to conduct studies, surveys, and analyses, and to perform research as required, in order to integrate the Conference recommendations into the Commission's existing and proposed programs, in order to assure that the Conference recommendations are implemented. Strategies for recommendation implementation will be developed through a work plan.

The elements of this work plan will include various process for the Commission described in the following steps:

- Receipt of the final report from the Conference staff;
- Transmittal of the report to the President and the Congress;
- Review and evaluation of the recommendations;
- Assignment of priorities;
- Review and assessment of recommended action;
- Definition and development of implementation plans;
- Execution of plans with continued monitoring of the expected improvements.

Because of the large number of issues which are likely to be raised at the Conference, the complexity of those concerns, the varied groups and individuals with which the Commission works, plus other factors, development of action plans will take some time and careful consideration. We plan to concentrate first on the National level, working closely with Legislative and Executive Branch agencies to coordinate and plan appropriate Federal programs which respond to the priorities and proposals contained in the recommendations. Once developed, accepted, and implemented there, the Commission will translate those plans into proposed action steps at the regional, state, and local levels, coordinating with those concerned groups, representatives, officials, associations, and others as required to assure the most successful and effective implementation.

## Kellogg Foundation Program for Rural Libraries

MR. HARKIN: Mr. Reid, during my first year as Chairman of the Subcommittee, I raised the issue of bookmobiles and other services to expand access to libraries for individuals in rural areas. I was informed that the Commission was promoting a 3- to 5-year program, funded by the Kellogg Foundation, to improve access to rural libraries in Mountain States.

What is the status of this program?

MR. REID: Support by the W.K. Kellogg Foundation for the Intermountain Community Library and Information Services (ICLIS) Project ended on June 30, 1990. ICLIS, funded by the Kellogg Foundation in 1985, supports the delivery of library and information services and education programs to rural communities in Colorado, Montana, Utah, and Wyoming through the applied use of telecommunications technologies. ICLIS received a positive evaluation by the independent Formative Evaluation Research Associates, hired by the Kellogg Foundation. To quote from the ICLIS Evaluation Report: "The ICLIS Project is regarded highly by both the people it serves and the people who deliver services. There is general consensus among the people interviewed that the project has succeeded in achieving its goal of enhancing the delivery of educational information to remote, rural areas....ICLIS is considered invaluable in providing access to 'new' resources through advanced technology--as well as providing educational opportunities that respond to a community's needs. However, the number of people in community and state-level institutions [state libraries, land-grant universities] who are aware of the project is small."

In most of the ICLIS communities the importance of the library as an information provider for all citizens, and as an educational outreach center for learners, is now better understood.

Since ICLIS is no longer supported by Kellogg, its programs and activities are for now severely curtailed. Yet the ICLIS leaders feel obligated to assure that the large investment of money and even larger investment of innovative thinking in the project will have a payout that reaches beyond the ICLIS states and communities. To this end, with the encouragement of NCLIS, $49,340 was awarded by Kellogg to support an ICLIS National Conference, Workshop, and Seminar in conjunction with the July, 1991 White House Conference on Library and Information Services. The ICLIS Conference will take place on the day prior to the start of the Conference. An ICLIS Implementation Handbook is being prepared for those who attend the ICLIS Pre-Conference.

Between 100 and 130 WHCLIS delegates or alternates from rural states are expected to participate in the ICLIS Pre-Conference.

## Promoting Rural Library Services

MR. HARKIN: Can you briefly describe some of the methods that are most effective for expanding and promoting library services in rural areas?

MR. REID: There are dedicated efforts by various groups and individuals interested in improving the quality of services available from rural libraries. One example is the small and medium-sized library section of the Public Library Association, which has sponsored important national conferences to focus attention on rural libraries. Another example is the School of Rural Librarianship at Clarion State University in Pennsylvania, which holds two conferences each year on rural librarianship in an effort to promote interest and awareness of the very special challenges faced by those communities in remote or rural areas.

Still another source of leadership is the state library agencies, many of which support books-by-mail services, bookmobile services, and other methods of making library and information services accessible to rural residents.

Contemporary methods of gathering and accessing information are now possible through telecommunications, as demonstrated by the ICLIS project. Some rural libraries are active participants in their states' electronic networks for sharing information among libraries. With the development of a National digital network, the electronic delivery of information resources through high-speed, high-capacity network systems in a variety of media formats including text, image and motion greatly expands the possibilities for all libraries. The role of the rural library in this emerging National digital network could provide rural citizens a link to library holdings and information resources which are today beyond the reach of many rural communities.

Information about bookmobile services providing delivery of public library resources to rural citizens is available through the National Center for Education Statistics' Federal State Cooperative System which gathers public library data from all the states on an annual basis. This program is managed jointly by NCLIS and NCES and is currently in the third year of development.

## Disabled and Handicapped Services

MR. HARKIN: Mr. Reid, in past years, I've asked Commission members about their commitment to improving library service and access for special populations. One of my main concerns is expanding efforts to provide services for the learning disabled, the handicapped and the blind, so that, not only are library doors open, but materials are there that are useful.

What specific recommendations has the Commission developed to ensure that this population has access to these special services?

MR. REID: Although the Commission has a strong history in working to improve library service and access for special populations, the requirements of planning for the White House Conference on Library and Information Services, plus the fact that a static budget means that we have had to cut staff, have caused us not to be able recently to study in depth and issue specific recommendations on library and information services for the learning disabled, the handicapped and the blind.

Our Executive Director, however, has recently been in contact with several people from the West Virginia Research and Training Center at West Virginia University who are working with the National Institute on Dissability and Rehabilitation Research to develop computer-assisted technology which can be used to help disabled and handicapped individuals to locate employment accommodation and other services through the existing library infrastructure. Working with a highly devoted and technically qualified staff, the Center is very interested in working in conjunction with NCLIS to develop programs in the future.

Also, as you know, many special populations are well organized and skilled in voicing their needs for a variety of services so that they are fully functioning citizens. We expect that to be the case with a number of special populations represented at the White House Conference on Library and Information Services. The Commission looks forward to receiving their recommendations and working with them to take strong stands on accessible library and information services for all people in the Nation.

## Libraries and Literacy

MR. HARKIN: We've all heard a lot about the Administration's National Education Goals and the need to explore all possible ways to reach these six national performance goals, especially the goal of national literacy by the year 2000.

In your view, what is the role of libraries in helping us to achieve these goals?

MR. REID: Libraries -- particularly public libraries -- can provide and are providing valuable services to combat illiteracy by recruiting students and tutors, assisting and training tutors, providing neutral and non-intimidating facilities for literacy services, developing specialized literacy collections and resources, producing printed literacy promotional materials, and through the adaptation and use of new information technologies, providing exciting, hands-on learning opportunities for non-readers. State libraries can make and also are making valuable contributions through literacy coalition building, cooperative programs, specialized training programs for public librarians, and evaluation and assessment activities -- in short, strong state leadership and guidance in support of regional and local libraries.

Since librarians are educators themselves -- school librarians, for example, are teachers also trained as librarians -- library services and resources undergird all formal and informal educational processes and contribute to excellence in education. Strengthening and marshalling library and information services to help achieve the National Education Goals must be a significant initiative throughout the 1990's.

Libraries are well equipped to help achieve the Nation's educational goals, especially in areas related to information literacy, a skill that goes beyond reading literacy skills, taking the reader into the next stage of learning to acquire critical thinking skills. Information literacy skills are required to continue the new reader's interest and understanding of the role of information in both education and life-long learning. Libraries are centers of skill-development for competencies needed by all walks of society, in finding, locating, and evaluating information resources, and in applying these information resources to problem solving and knowledge creation activities.

MR. HARKIN: How is the Commission working with non-profit organizations and state and local governments to create a stronger national literacy program?

MR. REID: In cooperation with the American Association of School librarians, a division of the American Library Association, the Commission conducted a National symposium on information literacy in April 1989, the published proceedings of which have proven to be a landmark contribution in the general area of literacy concerns. Demand for this report has been so great that it is now being reprinted.

More recently, the Commission has developed an action plan in cooperation with the National Forum on Information Literacy, a key component of which is to explore with the National Governors Association how the Commission and the Nation's library systems can assist in achieving the key national goal on Adult Literacy and Lifelong Learning. It is anticipated that from this initiative will emerge a second National symposium on libraries and literacy, involving the public and private sectors and various professional societies. Further, Commission staff is in the process of identifying the gamut of Federal legislation on literacy to determine implications for libraries and possible areas of contribution and coordination.

## Services for Native Americans

MR. HARKIN: I understand that the Commission has formed an interagency task force to hold hearings and address some of the concerns among Native Americans about the lack of library services in tribal communities.

Will the Commission be holdings its fourth hearing in the Northwest this spring as planned?

MR. REID: The fourth hearing will be held in the Pacific Northwest as planned, but because of time and planning constraints, as well as the efforts devoted to planning for the White House Conference this July, this activity has been rescheduled for Friday, August 16 in Seattle, Washington. It will be preceded by four days of selected site visits to Native American reservations in Montana, California, Washington, and Alaska.

MR. HARKIN: How are the statistics and information collected through this hearing process being used to generate a plan for improving services to tribes and underserved populations?

MR. REID: The data collected through the hearing process and other sources have been carefully studied by Commission staff and consultants and a draft long-range plan was recently developed with considerable input from the Native American library community and others concerned about the needs of Native American reservations and underserved populations. The draft long-range plan, titled Strategic Plan for the Development of

Library and Information Services to Native Americans, was distributed to all delegates to the Native American pre-White House Conference on Library and Information Services held in Arlington, Virginia, February 28 - March 3, 1991, and was favorably endorsed through the resolution process. It is expected that this publication will become the cornerstone for the planning and improvement of Native American library and information services through the decade of the 1990's and beyond. A copy of the draft plan has been submitted for the hearing record.

## Information Transfer

MR. HARKIN: Mr. Reid, I've spoken to a lot of individuals, both in my state and others, who are certain that quick access to verifiable information is one key component to improving our international competitiveness. The Federal government and our public university system are two of the main producers of this "cutting-edge" information, whether it is in the area of agriculture, biotechnology or business statistics.

What is the Commission doing to study and prescribe better ways of distributing information electronically from government to the private sector using the latest technology?

MR. REID: The Commission has been integrally involved in programs, plans, and discussions concerning the emerging National Research and Education Network (NREN). Working closely with the Association of Research Libraries, EDUCOM, and CAUSE in the newly formed Coalition on Networked Information, NCLIS has been discussing how libraries and information service providers can use the new electronic network technology to better support the research and development needs of the Nation's industries. Hearing from those engaged in research and policy studies in the areas of telecommunications, satellite transmission of educational programming, and network technology researchers, the Commission has identified areas of policy concern which are central to the effective development and implementation of the new National "digital highway."

In addition, Commission staff has been in close touch with other Federal agencies involved with developing and revising regulations concerning electronic information, especially digital databases containing records produced at public expense. The issues of ownership, access, economics, and technical standardization are complex and challenging as we continue to progress towards a more electronic information age in the near future.

The Commission is planning for future programs in this area which build on those which resulted in the formulation of "Principles of Public Information." That effort involved hearings with representatives from the Federal, private, and public sectors concerned with the policy implications of information technology for government information.

Finally, the Commission is planning to address the global issue of information economics and the importance of information resources for internatioal economic competitiveness in the next round of tri-lateral meetings which resulted in the Glenerin Declaration.

## U.S. INSTITUTE OF PEACE

### STATEMENT OF AMBASSADOR SAMUEL W. LEWIS, PRESIDENT

### ACCOMPANIED BY CHARLES E. NELSON, EXECUTIVE VICE PRESIDENT

### BUDGET REQUEST

Senator HARKIN. Next is the U.S. Institute of Peace and Ambassador Samuel Lewis, President of the U.S. Institute of Peace.

The Institute is requesting $11.9 million for fiscal year 1992, an increase of $3.5 million over last year's level.

Ambassador Lewis, it is a pleasure to welcome you here. I want to commend you and the Institute staff for all of your ongoing efforts, especially to educate the Nation during the recent crisis.

Now, more than ever, the Institute has a critical and lasting role to play in shaping the future debate about conflict, conflict resolution, cultural barriers, and successful conflict resolution in the Mideast. Your work at the Institute has been vital to understanding these issues in the past, and I look forward to hearing your plans for the Institute in this and other areas during our time together today.

I yield to Senator Specter.

Senator SPECTER. Thank you very much, Mr. Chairman.

I join the Chairman in welcoming you gentlemen here. Ambassador Lewis has done outstanding work in the public and private sector and is a very forceful advocate for the U.S. Institute of Peace. I have participated with Ambassador Lewis and had occasion to visit him when he was Ambassador in Tel Aviv. I had a chance to meet with him very briefly yesterday, and I expressed the regret to him that we couldn't offer him more money in the public sector. I would like to see him back in public life, and he commented that he could do more good on his private pursuits, and I will defer to his judgment on that.

I express my regret that I cannot stay. We are moving on a Desert Shield package today and I am ranking Republican on the Veterans Affairs Committee, and I have to go to the floor shortly. But I did want to come by especially to comment here and to express these words of admiration for the U.S. Institute of Peace and Ambassador Lewis.

Thank you, Mr. Chairman.

Senator HARKIN. Thank you, Senator Specter.

I associate myself with the words of Senator Specter. Thank you. Please proceed.

Ambassador LEWIS. Thank you very much, Mr. Chairman, and thank you very much, Senator Specter.

Mr. Chairman, I first would like to start by expressing again our tremendous admiration and gratitude for the support that this subcommittee has given to the Institute of Peace. This is the fourth time that I have had the privilege to appear before this subcommittee, and you and your colleagues have helped us to grow from a very tender and not very well established plant as a new institution to a strong adolescence. And we have matured a great deal in these 4 years with your support and encouragement to the point where we have now great breadth of capacities to contribute to our Nation's vocation of being a more effective peacemaker in this world, and not just a more effective warmaker when the occasion requires.

We are presenting our budget this year at a very special time in world history. Kuwait is liberated and the war in the gulf is over, but the stable peace in that region is not by any means assured. In Eastern Europe and the Soviet Union the cold war has ended, but the political wars remain unabated and, indeed, perhaps are intensifying. And in other parts of the world there are many intrastate and international conflicts that continue to bedevil nations from Southeast Asia to Central America.

There are also some constructive trends. Democracy is beginning to take fragile hold in a lot of countries where it has not been common. And certainly out of the gulf crisis, it is clear that the United Nations may now be able to play more of the peacemaking and peacekeeping role that the charter framers originally planned for it, if we are smart enough to build on the experience of the gulf United Nations effort. All of these trends suggest that our work at the Institute, as you have just said, is honestly more timely and more needed than ever.

## FUNDING REQUEST

We are seeking, as you said, an appropriation of $11.918 million for the next fiscal year. That has two major components; $10.243 million is for the programs we had planned before the military engagements began mid-January in the gulf, and that figure includes the funding necessary for the new Spark M. Matsunaga Medal of Peace which Congress authorized right at the end of the last session in 1990.

It also includes $1.675 million for the Institute's new special program in Middle East peacekeeping and conflict resolution, which we have established to respond to the extraordinary challenge of turning this region so riven by war into a more stable and enduring arena of peace in the years immediately ahead. With a victory in the gulf war, I believe that the next 18 to 24 months will be a very critical time for the United States and for some other countries who seek along with us a more peaceful, prosperous, just and stable Middle East order. But the obstacles are enormous, and I will not repeat them here. My statement goes into the details, and I assume that my full statement, Mr. Chairman, will be entered in the record. So, I do not want to take a lot of time reading it, but I do want to continue by hitting a few of the highlights, if I might.

## SPECIAL MIDDLE EAST PROGRAM

The war has changed so much in that region that major diplomatic initiatives—which President Bush and Secretary Baker have already begun to launch, and initiatives by others in our allied coalition—are inevitable, initiatives not only to restore the status quo, which can never be totally restored, but to try to knit together a stronger fabric of regional peace and security in the gulf, the peninsula, and between Israel and its Arab neighbor enemies. We believe very strongly that we can help the administration, the Congress and the American people to think through and get some insights into how immediately to deal with this urgent agenda. We are doing this by adding this special Middle East program and having it coordinated by a senior Middle East expert who is joining our staff on detail from the State Department: Ambassador Hume Horan, who is one of the most distinguished experts on the Arab world in the Foreign Service and who served previously as our ambassador to Saudi Arabia, Sudan, and Cameroon.

Ambassador Horan, working directly with me, will be coordinating and directing this new effort. We are redirecting funds immediately in order to launch a series of activities under the new program without waiting for our fiscal year 1992 appropriation. For unless we can become useful and helpful in the next 3 months on many of these urgent diplomatic agenda issues, we will miss a great opportunity to be of service to the Nation. After September 30, continuing the special program will really depend on our obtaining the sizeable additional funds we are asking for next fiscal year, but in the meantime, we are starting. Indeed, we have already started, and we are going to squeeze and slow down other activities to make it possible, as painful, frankly, as that will be for some of our ongoing projects.

Now, the new program has several component activities with differing time horizons. I have consulted in putting together this program with the policy planning staff at the State Department, with the White House National Security staff, with some key members of the Senate and the House, and with some staff members of the Foreign Relations Committee and the House Foreign Affairs Committee. I have been encouraged by all of them to bring the Institute into this challenge and use our rather unusual ability to gather experts from the private sector with experts from within the Government in some small, highly policy relevant working groups, not to produce books a year or two hence, not to produce a lot of scholarly papers to be published some day, not that I have anything against good, solid research and scholarship. Much of our regular program does go to support more basic research into issues of conflict resolution, origins of conflict, negotiation theory and the rest. But the challenge right now is to get people together to focus on four or five of the agenda items that the administration is attempting to think through, and will admit quite frankly in private that it needs additional ideas.

So, we are gathering these groups of anywhere from 15 to 35 people, from around the country and a few from abroad, people who have been in government, scholars who have experience in working with policy related issues and the best experts one can find. We are going to call them together to meet under our leadership briefly over the next months, and we are going to produce intermittent products from these efforts, short, policy relevant kinds of papers. We will feed those to the Congress, to the administration, and to the public, for all of our work is public. Out of these groups, I am convinced some very important insights and ideas will come that can be a support for the activities of our old line agencies. And certainly the impression that I have from looking at what other people are doing is that none of these issues we are addressing are ones on which there is any excessive thinking going on.

Let me just quickly tell you what the five groups are that we are initially pulling together.

### MIDDLE EAST PEACEMAKING EXPERIENCE

The first one is on Arab-Israeli peacemaking. It focuses not on what the solution ought to be for the Arab world or for Israel. Lots of people have designed solutions. Ultimately the people in the region have to come to terms with the solution. Our focus is on the history of past U.S. efforts to be peacemakers. We have had 45 years of experience now of being involved in efforts to bring peace between Arabs and Israelis, and no one has really ever sat down and tried to examine some of the experience from those efforts to show what approaches work best and which ones work least well. So, we are bringing one or two scholars who have done a lot of research on the history of previous peacemaking efforts, back even before World War II, along with about a dozen of the actors who have taken part in the major diplomatic efforts the United States has launched and been involved in since the 1967 war, to pit the scholars' conclusions against the experience of the practitioners. Then we will supply the lessons from this group within the next 6 or 8 weeks to our State Department, our U.N. Mission, our Congress, and our public.

Senator HARKIN. Excuse me for interrupting. Is that something you are doing right now?

Ambassador LEWIS. We have started. The first meeting of this group will be on April 3. The scholar is already gathering the material. We have already gathered the group. In fact, the first three study groups I will speak about are all started. The other two will start before long.

### U.N. PEACEKEEPING

The second group deals with the immediate question of how you design the best peacekeeping operation for U.N. forces in the gulf. Everyone understands right now we are going to have to have some kind of U.N. peacekeeping to follow on to the American forces as they withdraw, and this is an active subject being debated right now in New York.

We happen to have at the Institute this year the leading expert in the world on United Nations peacekeeping operations, Gen. Indar Rihkye, who is a distinguished fellow with us at the Institute right at this moment. General Rihkye was for many years the military advisor to the U.N. Secretary General on peacekeeping and himself headed a U.N. peacekeeping force in the Sinai before 1967. He is from India. He is working now, starting the day before yesterday, with a group he has drawn together of one-half dozen Americans and about one-half dozen foreigners, all of whom have been involved in U.N. peacekeeping efforts at one time or another, reviewing the lessons of past U.N. peacekeeping operations and focusing them into a design and some suggestions which we will start feeding to key officials on Monday of next week. Their focus is on things to avoid as you design this force, things that must be done if it is to be an effective force, sequencing of decisions, and many of the lessons about force composition and mandate drawn from previous U.N. enterprises in the Sinai, in Lebanon, in the Congo, and elsewhere. That is our second group.

General Rihkye will be with us for the rest of this fiscal year. This project will again be a continuing effort, but we are starting it immediately to have some useful impact on the decisions in New York at the Security Council over the next month.

### ARMS REDUCTION

The third group deals with Middle East arms control and arms limitation, one of the four challenges that President Bush put to the Congress and to the people, and the one, frankly, that I myself feel the administration has the least idea about how to proceed. We have had encouragement both from ACDA and from elsewhere in the administration to see what we can come up with through this study group to see what lessons from the European arms control history, which is very rich, may or may not really apply in the Middle East environment.

We had our first meeting of that group last Monday, and it was highly successful. We have assembled an outstanding group of about 25 or 30 people, and we will be meeting about monthly. This group will put out, once again, short progress report type suggestions. We are not trying to design a magnificent big policy. What we are trying to do is take a mixture of scholars and practitioners, rub them together over a sensible agenda on a current, vital issue, and then, taking whatever good ideas come out of these sessions, feed the ideas into the public and administration debate quickly and informally so that they can fertilize the thinking of the Congress and the administration and the public. That is the concept, and I think it is one that has not been used in the same way by any of the think tanks in Washington or elsewhere that I am aware of.

### LEGAL STRUCTURES

The fourth project will begin on April 16. It is a much longer, broader investigation. This effort is designed to draw the lessons of the gulf crisis and apply them to the U.N. system. It will examine what one can do from what one has learned out of the gulf crisis to strengthen not only the international legal structure against aggression, but also to strengthen the functional capability of the U.N. Secretariat and the Security Council to establish standby forces in being for future crises and to react as a genuine collective security mechanism one step beyond what was done in this case.

We made real headway, I think, in the gulf crisis, thanks to President Bush's leadership and his decision to go through the United Nations. I think it was a marvelous decision for the history of the United Nations and the future of peacemaking, if it is followed up. But following up requires thinking carefully with a number of experts about what can be done as the next step to prepare for the next kind of international crisis. I feel quite sure, Senator, as you do, that there are few crises where the United States will feel its interests sufficiently threatened that we will see it necessary or desirable to send one-half million men halfway around the world. But there are going to be other aggressions and other crises, and by the time they erupt, we need to have a more coherent, better planned, better prepared U.N. collective security system in place, and that is what this study group is directed toward.

### ARAB WORLD DYNAMICS

And the fifth group, which we will not be able to start until the fall because of the funding problem—although Ambassador Horan will be designing it in the meantime—will look at the future social and political dynamics in the Arab world. What is the Arab world going to look like over the next 3 to 5 years? What kind of regimes are we going to encounter? What are the have/have not issues going to turn out to be? And how is that going to affect the prospects of peace or further hostilities in that region. We will gather the best scholars and some practitioners, but primarily scholars, Arab and American, for this particular group. And we will run that project through the winter and on through the next fiscal year.

### FELLOWSHIPS AND GRANTS

In addition, we will bring some additional fellows into our resident fellows program from the Middle East region. We will also be looking very carefully at work we have already funded, grants and fellowships. We have now quite a cornucopia of products from our grants from previous years, many of them directly applicable or partially applicable to the aftermath of the Mideast crisis. We are going to glean through those products—and Ambassador Horan will help me with this in particular—and pick some of the raisins out of the pudding that are relevant to policy questions now and disseminate them separately from the scholar's publications and books, which are the normal publication results of our grants.

### SOVIET UNION AND EASTERN EUROPE

Now, we are not going to abandon our priority on Eastern Europe, which we established last year and which we still maintain. We have done an awful lot in the last year about the issue of post-cold war Europe and Eastern Europe. We published, for example—and I think you saw this publication that came out of a study group we ran last winter and spring—"Prospects for Conflict or Peace in Central and Eastern Europe." We put that out in June, and it has gotten an extremely good reception. It also came out of a mixed study group, somewhat like the ones that I was describing earlier.

We have run a joint project involving a two-part conference of American and Soviet historians arranged with the Soviet foreign ministry, looking at the origins of the cold war. And on the origins of the cold war, or publication just came out today drawn from this particular conference which was held first in Moscow and then here in Washington. With the two sets of historians together looking at the origins of the cold war, we found some fascinating insights into the way each group looked at the other's history. We also came up with a new document from the Soviet archives which is the basis of this publication, a telegram, very much analogous to George Kennon's famous long telegram, filed by the Soviet Ambassador in Washington, giving his appreciation at about the same time of what the relationship was going to be like between these two former allies. It's a fascinating juxtaposition, and the historians are quite excited about it.

We have also sponsored seminars in Moscow and Leningrad under our new rule of law initiative along with the Department of Justice, the State Department and USIA and with the Soviet Academy of Sciences' Institute on State and Law. We have funded some conflict resolution training programs in Moscow and Warsaw by an Institute grantee, a very fascinating experience which has led to the setting up of a conflict resolution training center in Warsaw as a spinoff from this project.

We have sponsored a comprehensive survey that will be published next month as a "Directory of American Initiatives on Constitutionalism, Democracy, and the Rule of Law in Central and Eastern Europe." We have in our current stable of fellows a Soviet economist, a former Czech diplomat, a Soviet diplomat, and an American filmmaker who is working on the history of communism around the world.

### EDUCATIONAL VIDEOS

And finally in the Soviet area, we have been producing an extraordinary video series for high school history and social studies classes, and for community audiences as well, which amounts to a minihistory of the relationship between the Soviet bloc and the West from World War II up till last year. It is in 5½ hour video segments, each one broken down into two 14-minute modules for classroom flexibility with teacher guides and a lot of very important teaching material along with it. The teachers can use these short modules individually, or they can use two together, along with their regular curriculum on modern history. We have three segments finished now, and we have two more programs in production at present that will be finished by the end of this fiscal year.

It is going to be distributed to high schools through the Encyclopedia Britannica Educational Company. The films have been vetted by a number of school teachers and focus groups in the process of production, and we have had a number of educators working with us on the design. I just learned, for example, that the social studies chief of T.C. Williams High School in Alexandria borrowed the three videos recently to try them out on his classes—they are not in general distribution yet—and found this series, which is called "Breaking the Mold," truly unique and a welcome contribution for their curriculum. And all of his teachers were all quite enthusiastic about it. So, that again encourages me to think we are really on an interesting track here.

Our board is convinced, as I am convinced, that if there is one thing among many that our kids need to know more about, it's contemporary history, history of the 20th century. And this film series is intended and I think will add another way of helping to bridge that gap.

Now, I can say a lot more about our educational programs, but I think I really should quit. I know you have other witnesses and time is short.

### TEACHING SUPPORT

We have stepped up greatly our educational programs as a proportion of our total activity over the 4 years that I have been coming before you. And at present we are very active in the teacher training area, summer workshops for teachers, curriculum development projects, as well as the educational video programming project. We are supporting programs in about 10 or 12 States now where they are experimenting with different kinds of curriculum changes, all of them designed to provide materials that enrich either high school or college curricula on the questions of peace and conflict. Where does conflict come from? What is the real nature of the international challenge? How do you make peace, and how is it maintained? And all of our efforts at curriculum reform are targeted on those kinds of questions, and on teachers of social studies, history departments, and the like.

### NATIONAL PEACE ESSAY CONTEST

We have one project that gets directly at the students and that, of course, is our national peace essay contest. We have about 10,000 students this year all over the country who are writing essays about a chosen subject. We bring the winners from each State to Washington for a week. We give a national scholarship to the first, second, and third winners. We give the State winners a week of immersion in some interesting international exercises, negotiation, simulations, and visits and educational orientation programs here in town. And this project has been getting a lot of praise from Governors and Congressmen and educators all around the country.

### FUNDING

Finally, Mr. Chairman, let me just say, as I said at the beginning, that since I first came here, we have matured a lot. We have gotten to a point where we have so many creative things going on I can hardly keep track of them all, quite honestly, and that is why our submission is so big and takes so long to read. It is partly intended to educate me as well as you when it is put together every year. If you can find your way clear—and I know it is difficult—to give us the funding that we have asked for in our 1992 budget, we can truly not only use it effectively, we can make an even greater contribution to the national good and the international interests of the United States.

### PREPARED STATEMENT

It may be rather demagogic to say it, but I think I should also say that this special Middle East program that we are asking funds for—which we only put together as the war was beginning, $1.675

million additional on top of our regular program—to fund that special program would be the equivalent of paying for 12 minutes of the cost of Desert Storm and Desert Shield, and I think that is not a bad investment. So, I urge you and your colleagues to give us all the help you can to help the United States continue to be not only an effective defender of freedom, but a much more effective maker of peace.

Thank you, Mr. Chairman.

[The statement follows:]

## STATEMENT OF AMBASSADOR SAMUEL W. LEWIS

Mr. Chairman and Members of the Subcommittee, we present the budget request of the United States Institute of Peace for fiscal year 1992 at a very special time in world history. Kuwait is liberated and war in the Gulf is over, yet a stable peace there is not yet assured. The Cold War has ended, but Eastern Europe and the Soviet Union remain highly unsettled. In other parts of the world, a large number of intrastate and international conflicts continue from Southeast Asia to the Horn of Africa to Central America. At the same time, constructive forces are also at work: an increasingly integrated European Community is taking shape; democracy is taking fragile hold in many nations; the United Nations may now be able to play more of the peacemaking and peacekeeping roles originally planned for it; and a number of regional conflicts offer some hope of resolution. Plainly, the Institute's work is more timely than ever.

After outlining our budget request, I will devote most of my testimony to the Institute's activities on the Middle East. Next, I will highlight other priority projects and concerns involving Central and Eastern Europe, the Soviet Union, and other parts of the Third World. I will then close with some comments about the growth of the Institute's activity in education and outreach to the American people.

### FISCAL YEAR 1992 BUDGET REQUEST

For fiscal year 1992, the Institute seeks an appropriation of $11,918,000. Our request has two components:

- $10,243,000 for programs planned before the military engagement in the Gulf began on January 16, 1991, including funding for the Spark M. Matsunaga Medal of Peace, authorized by Congress as one of its last acts in 1990.
- $1,675,000 for additional activities planned after January 16, 1991, as part of the Institute's new Special Program in Middle East Peacemaking and Conflict Resolution.

The Institute's authorization of appropriations for fiscal year 1992 is $15,000,000. For fiscal year 1992, the President's Budget Request contains a "no

---

* For fiscal year 1991, the Institute's appropriation was initially $8,600,000. This amount was reduced to $8,393,000 by a budget reconciliation measure. Subsequently, it was reduced further to $8,234,000 by a "mini-sequester." Since we are assured that the $159,000 mini-sequester will be restored, we have considered $8,393,000 as the amount available to us from the fiscal year 1991 appropriations.

growth" figure of $8,911,000, derived from our fiscal year 1991 funding level of $8,393,000* plus an inflation factor. Our fiscal year 1992 request of $11,918,000 is thus $3,018,000 higher than the President's Budget Request and $3,525,000 over the fiscal year 1991 funding level.

## SPECIAL MIDDLE EAST PROGRAM IN PEACEMAKING AND CONFLICT RESOLUTION

With the coalition's victory in the Gulf war, the next 18 to 24 months will be a critical time for the United States and for those other nations seeking to construct a more peaceful, prosperous, just, and stable order in the Middle East. The obstacles are, of course, enormous. Iraq's attack on Kuwait and its dramatic aftermath have fractured the Arab political system in an unprecedented way. Iraq remains in the grip of an evil tyrant, but civil upheavals threaten him and the unity of the state. Political and social forces from Iran to Mauritania are in ferment, and, in the wake of the war, several Arab regimes are at risk from divisions between rulers and ruled that the crisis sharpened. The Palestinian movement is in crisis. Turkey's return as a major Middle East player rearranges traditional power relationships. The list of complications for peacemakers is, indeed, very long.

Yet, the war has changed so much that the major diplomatic initiatives now under way by the United States and others were inevitable—not merely to restore the *status quo ante,* but to try to knit together a stronger fabric of regional peace and security in the Gulf, the Arabian Peninsula, and between Israel and its Arab neighbor-enemies.

To help in this effort, the Institute has established a "Special Middle East Program in Peacemaking and Conflict Resolution," under my direction, to be coordinated by a senior Middle East specialist with broad experience in the Arab world. The first coordinator will be Ambassador Hume Horan, most recently U.S. Ambassador to Saudi Arabia and previously our Ambassador to the Sudan and Cameroon. We are launching this Special Program immediately with funds being reprogrammed at great difficulty from ongoing programs. However, after September 30, 1991, this priority effort will be dependent on the Institute's obtaining the sizable additional funds we are requesting for fiscal year 1992.

The Special Program will have several component activities with differing time horizons. For example, with strong encouragement from the Policy Planning Staff of the Department of State and the National Security Council staff at the White House, the Institute is immediately forming several advisory groups of experts to examine some of the major topics for post-war planning now under urgent review within the U.S. government—feeding ideas informally to the Executive Branch, the Congress, and the public as they are debated and distilled. These groups will include both outstanding scholars and experienced public officials; they will address topics such as:

> The Middle East Arms Race: how to control and reverse it; mechanisms for halting proliferation of ballistic missiles, chemical and biological weapons, and nuclear capabilities; negotiating techniques; confidence-building measures; and the transferability of lessons from East-West arms control negotiations to the multipolar Middle East arena.
>
> Arab-Israeli Peacemaking: how best to create an effective negotiating process involving Israel, key Arab States, and representative Palestinians; lessons from prior Middle East negotiations which need recalling for policymakers with special attention to the history and lessons of multilateral conference diplomacy in the Middle East since the 1930s.
>
> Multilateral Security Arrangements in the Gulf Region: the role of the United Nations in general and in particular the respective roles of U.S. forces, other foreign forces, Arab forces, and UN peacekeeping forces; how to apply lessons from other UN peacekeeping operations to the deployment of UN peacekeeping and/or other observer groups in the Gulf region.

Beyond these topics, there are major opportunities for the Institute to support more fundamental research highly relevant for the estimated two-year "window of peacemaking opportunity" ahead in the region. These long-term efforts will be accomplished by special grants and contracts, new fellows, and a small number of extended working groups.

An important part of the Special Coordinator's role will be to extract from other Institute-supported work—especially, grants, fellowships, and working groups—those creative insights directly relevant to the Middle East peace agenda and to see that they are disseminated to key target audiences and to the general public. The Institute will employ all its tools in support of this Special Program, including solicited grants, resident fellows, contracts with external researchers, informal study groups, international expert advisors, formal working conferences, and our publications, marketing, and public affairs operations. The Special Middle East Program should command priority attention by the Institute for the next two to three years, funds permitting.

The Coordinator of the Special Program will assure that the Institute obtains maximum synergy from the application of all our program resources to this region. As part of the Special Program, we will appoint additional fellows from the Middle East, convene working conferences and study groups, commission contract research on selected fundamental questions growing out of the Gulf crisis experience, solicit grants to address a range of immediate as well as middle- and longer-range issues, and develop bibliographic and related tools for information access. Topics for such research will include:

> Lessons from the Gulf Crisis for Strengthening the United Nations and the International System Against Aggression: how to achieve an operational, global collective security system under the UN Charter.
>
> Future Course of Political/Social Dynamics in the Arab World: prospects for the inter-Arab system; regime stability; democratic pluralism; religious fundamentalism and peacemaking; and economic justice pressures on Arab regimes.

In short, by using our convening power and the variety of mechanisms, such as working groups, grants, fellowships, and contracts, which we have developed at the Institute over the past five years, we will aggregate the ideas and experience of leading international experts, American and foreign, to help provide a solid intellectual substructure for a protracted period of negotiation toward a more peaceful Middle East system. Out of the tragedy of war, the Institute has begun and will continue to address the challenge of conflict resolution and peacebuilding.

## EASTERN EUROPE AND THE SOVIET UNION—
## VITAL U.S. INTERESTS AT STAKE

From the outset of the Gorbachev era, the Soviet Union and Central and Eastern Europe have experienced dramatic changes involving a decline in East-West tensions, reductions in military forces, and moves toward democratic government and the opening of economies to competition. Institute projects responsive to these changes include: a study group that met during the last half of 1989 and produced a report distributed to key policymakers and others in early 1990 about the prospects for conflict or peace in Central and Eastern Europe • a conference on ethnic disputes and the rule of law in Central and Eastern Europe scheduled for June 1991, preceding the CSCE summer round of talks on the "human dimension," to be held jointly by the Institute and the Smithsonian's Woodrow Wilson Center and to include both Eastern European and American experts • meetings between

American and Soviet historians, under the banner of the Institute and of a research arm of the Soviet Foreign Ministry, on the origins of the Cold War followed by the Foreign Ministry's opening of its archives to western scholars • seminars in Moscow and Leningrad on the separation of powers, human and civil rights, and other aspects of the rule of law, co-chaired by the Institute and the Department of Justice with participation from the State Department, USIA, and the USSR Academy of Science's Institute on State and Law • conflict resolution training in Moscow and Warsaw by an Institute grantee • an Institute survey of American initiatives on democracy, constitutionalism, and the rule of law in Central and Eastern Europe • several studies by Institute fellows of changes in countries once behind the iron curtain, carried out by a former Czech diplomat, a Soviet economist, a Soviet historian, and an American filmmaker • a five-part public broadcasting-quality half-hour video series for high school and community teaching on the history of Central and Eastern Europe since the end of World War II.

## OTHER THIRD WORLD CONFLICTS

In addition to its work on the Middle East, the Soviet Union, and Central and Eastern Europe, the Institute is continuing with a concentration on Third World conflicts, as exemplified by (1) our 3-day conference in October 1990 on Third World conflicts and conflict resolution, featuring Institute grantees and fellows, including a special panel on diplomatic and other non-military responses to the Gulf crisis, and (2) a working group on religious intolerance and discrimination, covering Ukraine, Sri Lanka, Lebanon, Nigeria, Sudan, Tibet, and Israel.

In Latin America, the Institute is concerned primarily with the process of national reconciliation in countries with violent internal conflicts and the conflict resolution role of international organizations, such as the Organization of American States (OAS). The OAS and the Institute are carrying out a review of the role of the OAS in conflict resolution in Latin America. Related activities include a solicited grant competition on issues of peace, conflict, and governance in Latin America, and both grant and fellowship projects on relationships between democracy and internal violence in Peru, Colombia, El Salvador and Guatemala.

## INCREASED EDUCATIONAL PROGRAMMING

As we further develop our programs, from traditional scholarly research to films and other innovative teaching tools to library collection development, we keep always before us our goal of enhancing public understanding of the complex nature of the search for peace with freedom and justice. To this end, we have targeted special audiences and used our limited resources in ways designed to produce maximum multiplier effects. Priority audiences for educational impact thus far have been high school students and teachers, college and graduate school students and faculty, individual and organizational opinion leaders, and members of the general public who have an interest in international affairs.

Curriculum, Materials Development and Teacher Training. In fiscal year 1991, for the first time our solicited grant program is focused on the development of educational materials and teacher training programs in international peace, conflict resolution, human rights, and security studies. We anticipate that this step will more than double the Institute's previous funding for grants of this type and that in fiscal year 1991 the Institute will award up to 10 grants for curriculum development and teacher training projects.

We expect these projects, for example, to produce an approach to teacher training designed to demonstrate how college and university faculty and teams of teacher-leaders can work together in assisting senior high school teachers in instructing their students about the role of the United States in international peace and conflict resolution since the end of World War II. Other projects will produce material for college and secondary school students on the nature and consequences of conflicts emanating from national, religious, and ethnic differences with approaches for managing such conflicts.

Educational Video Programming. The Institute has now completed three half-hour video programs for high school teaching: each has two modules to enhance classroom flexibility and is accompanied by a printed teacher guide. The first explains the origins of the Cold War, the second illustrates East-West negotiating efforts with a focus on the Eisenhower-Khruschev summit negotiations, and the third recounts the dramatic story of the origins and development of the generally peaceful revolutions in Eastern Europe. The video series will be completed in 1991, with two additional programs following the same two-part model with instructional guide; both are about U.S.-Soviet relations from the early 1960s to the present. The series is being marketed by the Encyclopedia Britannica Educational Corporation. With VCRs increasingly plentiful in schools across the country, the teacher can select at will the full half-hour or any one or more of the modules to meet existing course needs. All five videos are of public broadcast quality and the Southern Educational Communications Association will distribute them to PBS stations for prime-time viewing.

Essay Contest. The Institute's National Peace Essay Contest for high school students is thriving. In 1989-1990 student participation across the country and from overseas American high schools tripled. In the 1990-1991 National Peace Essay Contest that is now nearing completion, we estimate that approximately 10,000 students are taking part in the writing exercise. State first-place winners will travel to Washington in June for a week-long awards program. The contest continues to receive high praise from governors, members of Congress, and educators at all levels throughout the country.

## CONCLUSION

Mr. Chairman, this is my first presentation to you in my second three-year term as president of the United States Institute of Peace. Since I first appeared before you three years ago, the Institute has grown and matured. We are now in a strong position to make important contributions to our national response to the fast-changing world situation. The increased funding we are requesting is modest when compared to the enormity of the challenge. Full funding of this fiscal year 1992 budget request will allow us to perform more of the role for which we were created. On the other hand, funding at the level included in the President's budget would remove all possibility for growth and make it impossible for us to respond adequately to the challenges and opportunities now before us in the Middle East and elsewhere.

For these reasons, I urge you and your colleagues on the Subcommittee to give your full support to our budget request.

## MIDEAST

Senator Harkin. Ambassador Lewis, thank you for a very eloquent and elegant statement.

Going through all the questions that we had prepared, I was going to ask you. I kept checking them all off, and I finally thought, well, he hasn't said anything about the essay. So, I have to ask him about that. [Laughter.]

And you touched on that too. So, everything that I had thought about inquiring about, you covered in your statement.

Let me just say that I just think that you have taken this Institute light years ahead from where we thought it was going to be. I congratulate you on that. I think you have, as indicated by Senator Specter, good, strong support on both sides of the aisle up here, and that is the way it ought to be. I think the Institute is really breaking some new ground.

I am really encouraged by your Mideast program. And you are right about contemporary history for kids today and understanding it. I must tell you. I speak for myself. I look at the Mideast and try to keep up on everything. I have been here 16 years now. I would probably be pretty hard-pressed if someone was to give me a little quiz on perhaps 20th century history of the Mideast, from the turn of the century until, let's say, at least recent times. And I think that has a lot to tell us about some of the situations. So, I really encourage you in that area to move ahead there.

I also hope that you will be looking at prospects for peaceful resolution south of the border. There are a lot of festering sores in Latin America that are still there, all the way from Cuba to, well, Haiti, the Caribbean nations, Central America, continuing problems there in Central America without mentioning countries by name. There are still again situations in South American countries where peace is tenuous at best in some of those countries. And so, I hope that you will have some ongoing programs there too. Again, I am loading up your plate.

### LATIN AMERICA EMPHASIS

Ambassador **Lewis**. Senator, if I may. In the interest of time, I skipped something in my prepared statement that is directly relevant to this point. We have a number of projects on Latin America, and we have just started another one that I think has a lot of promise. Our Executive Vice President, Charles Nelson, here is directing it for us.

We, with the Organization of American States [OAS], have agreed to look together at the role the OAS has played in trying to negotiate conflict resolution problems in Latin America. The OAS has great potential and has never realized it. We are going to be helping the OAS, beginning with a meeting just next week actually with the Secretary General, our representative to the OAS, and some of the other ambassadors to the OAS, to look at what the Institute can do, and what some of the experts in the field that we deal with can do, to help the OAS become more effective as an organization in reconciling and negotiating and mediating on conflict issues in Central America and the rest of the hemisphere. This is a parallel activity, in a way, to the working group that I just described on the United Nations and its capabilities. So, I did want to mention we are starting something in this area that I think has real promise.

Senator **Harkin**. I wanted to discuss this with you perhaps at some other point, but there is a program right now—I'm not certain where the funding comes. It comes under our other Subcommittee on Foreign Operations. It started several years ago, and it is only for Central American students. But they bring young kids up to America. There's one program that is short. It's like 6 months or something like that, and another one that lasts for a year or two. They go to some of our smaller colleges. I know there are some in Kansas, Iowa, community colleges. And these are basically for low-income kids or moderate-income kids who have just finished high school or secondary school, perhaps not necessarily going on to college, although some of them I have followed have, but they go to our community colleges. They learn English a little bit better. I guess they prepare for college is what I'm saying.

Anyway, I have met with them. They come up and I meet with them periodically about once a year when they come through on their way back to Central America, the different classes. And I am just wondering if you might not interface with that in some way.

Ambassador **Lewis**. I don't know about that program. We will try to find out about it and see if we can.

Senator **Harkin**. I'm sorry I'm a little hazy on how it all operates. I know I meet with them, and I know there is a college in Kansas and one in Iowa. There may be several States where they go. And perhaps integrating with those schools or when they come through here, something where you might interface with them.

Ambassador **Lewis**. We meet with quite a lot of student groups who come to the Institute to find out more about this field of conflict resolution and what we are doing about it. And we will certainly be happy to try to find out more about it and see what we can do.

Senator **Harkin**. I will work with you. I'll get my staff. We'll get together.

Ambassador **Lewis**. Sure.

Senator **Harkin**. I just thought about that when you were talking about young people in Latin America, and I thought about this one program we have.

Well, Ambassador Lewis, I don't have anything else other than to thank you very much for all you are doing. I am not in a situation of guaranteeing anything in terms of funding. But what I can guarantee you is that I will do everything I humanly possibly can to get you the requested amount.

Ambassador **Lewis**. Senator, thank you very much.

Senator **Harkin**. That I can guarantee you.

Ambassador **Lewis**. I can't guarantee you any peace either. [Laughter.]

But I can guarantee you the same way. I will do my darnedest to try to help achieve it.

Senator **Harkin**. Thank you very much.

Ambassador **Lewis**. Thank you very much.

Senator **Harkin**. Thank you very much, Mr. Nelson.

Mr. **Nelson**. Thank you.

Senator **Harkin**. We are going just recess for a couple of minutes. We have the National Commission on AIDS, and I will be back in just about 3 minutes.

[A brief recess was taken.]

Senator **Harkin**. The subcommittee will resume its sitting.

## QUESTIONS SUBMITTED BY THE SUBCOMMITTEE

There will be some additional questions from various Senators which we will submit to you for your response.

[The following questions were not asked at the hearing, but were submitted to the Institute for response subsequent to the hearing:]

# QUESTIONS SUBMITTED BY THE SUBCOMMITTEE

## Information Dissemination

**Question**: I am pleased to see that the Institute is continuing its past practice of sponsoring conferences and study groups, as well as sponsoring up to 13 Peace Fellowships in 1992. I am always a little concerned, however, that the excellent work being done by the staff and grantees does not reach the wide audience it deserves. How does the Institute ensure that its programs and products are disseminated in the broadest possible way?

**Answer**: The Institute is very mindful of the need for the broadest possible dissemination of the results of its work and information on its general activities. Following are descriptions of several interrelated mechanisms through which it tries to achieve these goals.

### Periodicals

The Institute's bimonthly newsletter, the *Journal*, is sent free of charge to a circulation of 21,000. Each issue contains news and review of Institute activities, articles on program-wide projects relating to a featured topic, and announcements of upcoming events and program deadlines.

The *In Brief* series consists of two to four page digests of work by grantees, fellows, and Institute-directed seminars. Targeted recipients include approximately 1,500 officials in the legislative and executive branches of government. In addition, through announcements in the *Journal*, the series is made available to members of the general public, more than 1,000 of whom have asked to receive them.

Both periodicals are sent to 860 United States Depository Libraries which have asked for copies of all Institute materials.

### Publications

The Institute disseminates much of the research it supports through publication as books and monographs. It publishes the products of its own Research and Studies Program and retains the right of first refusal to publish manuscripts produced by its fellows. For its grantees, the Institute considers selected products for publication, but most Grant research is published by commercial publishers and disseminated through their marketing networks.

The Institute distributes substantial numbers of complimentary copies of its publications to federal agencies, Congress, libraries, universities, the media, and to organizations in the peace and conflict resolution field. Customized marketing plans are developed for each publication. Between 3,500 and 18,500 flyers have been distributed on each publication. Promotional packages are also sent to bookstores and other outlets which market items on world affairs.

The Institute has broadly distributed two publications on timely events in world affairs, *Prospects for Peace and Conflict in Central and Eastern Europe* and *Finding a Peaceful Solution to the Gulf Crisis*, with press runs of 4,000 and 10,000, respectively. Principal audiences were government officials in both the executive and legislative branches. Thousands of additional copies were sent to libraries, educators, journalists, interested members of the public, and civic organizations, many of which used it to promote public discourse on events in the Gulf.

The *Second Biennial Report of the United States Institute of Peace* was published and submitted to the President and Congress in early 1990. It contains a comprehensive narrative of the Institute's administration and program development from its origins through 1989, as well as descriptions of all grant and fellowship awards and in-house research and studies activities. Copies were sent to 8,500 people on our mailing list. It was also offered free to the general public through announcements in the Institute's *Journal*, the *Federal Register*, and the *Chronicle of Higher Education*.

Announcements and Publicity

News of upcoming program deadlines and general Institute activities are regularly relayed to individuals on the Institute's mailing list and thousands of other individuals and organizations working in the international affairs and education fields. For example, more than 200 publications and association newsletters receive periodic updates on new grants, fellows, and seminars that may be of interest to their readers. More than 60,000 educators receive information on the National Peace Essay Contest.

So far in 1991, the Institute has fulfilled approximately 1,500 written and telephone requests for information on international peace issues and the Institute's functions. Some requests are generated from articles and announcements in publications with wide circulation, such as the *Federal Register*, *Commerce Business Daily*, and *Chronicle of Higher Education*.

Library Services

Institute publications and other documents are listed in a national Vertical File Index service for libraries, hundreds of which have requested and received items. In addition, more than 800 Federal Depository Libraries regularly receive Institute materials, either in hard copy or microfiche form.

Institute publications and products of Institute-funded work are available free of charge to libraries across the country through interlibrary loan. Information on our library's holdings is accessible through FEDLINK and other national computer networks.

Video Marketing

The Encyclopaedia Britannica Educational Corporation is distributing the Institute's video series on the history of the Cold War, "Breaking the Mold." The series, which includes three completed programs and two more still in production, is accompanied by a teaching guide and is intended for use in high school and college level history classes. The Southern Educational Communications Association, a nonprofit public television consortium, will make the series available to local PBS stations for broadcast.

Outreach

The Institute always tries to respond positively to requests for speakers. In cooperation with inviting organizations, the Institute programs speakers in as many forums as possible. Typical forums include lectures at colleges and universities; speeches before civic organizations, such as Rotary clubs; meetings with newspaper editors and reporters; and radio and television interviews. It has been our experience that audiences are usually very interested in the Institute's work and that these trips generate useful linkages with other educational institutions with which we have later collaborated on projects.

The Institute has also conducted intensive two-day outreach programs in three medium and large-sized metropolitan areas—Atlanta, Austin, and Honolulu. Each program included a number of events designed to reach core audiences, such as teachers, librarians, and civic activists, and a good representation of the interested public.

Large conferences are another venue to reach large audiences. For example, at the 1991 meeting of the International Studies Association, 700 people visited the Institute's display area. Information about programs, publications, and videos were dispensed to interested individuals. In October 1990, the Institute held a three-day conference on Conflict in the Third World, attended by more than 300 people, ranging from government officials to undergraduate students. Participants included more than 80 grantees, fellows, and others affiliated with the Institute. Papers and written presentations were distributed at the event, and we continued to receive requests for three months afterward. One session on the Gulf crisis was broadcast on C-SPAN several times. Many of the participants' papers have appeared in journals and other publications. Two, which focused on peacemaking issues, appear in the Spring 1991 issue of The Washington Quarterly. Two installments of our *In Brief* series have focused on this conference. Two more *In Brief* installments and an edited volume of the conference proceedings are in preparation.

Media Services

The Institute works closely with the media, recognizing that the print and broadcast media are very useful mechanisms to provide information to and promote informed debate among mass audiences. The Institute has issued an annual *Guide to Specialists*, which describes those experts associated directly with the Institute. It also issues occasional Media Alerts which describe staff and fellows' work on timely topics, including particular countries, conflicts, and methods of conflict management. Since last August, the Institute has fulfilled hundreds of media requests pertaining to the Gulf crisis. Fellows and staff have appeared on many national television and radio shows and have spoken with reporters from dozens of newspapers across the country.

The media is also alerted about Institute seminars, both in Washington, D.C. and elsewhere. Most major news services and many dailies have run feature stories about the Institute. C-SPAN television has aired several Institute events, including panel discussions on religious intolerance, deterrence, conflicts in the Horn of Africa, US-Soviet relations, and the Gulf crisis.

**Question**: What institutional mechanisms are currently in place or being planned to better achieve this?

**Answer**: The general area of education and outreach, including product dissemination, is receiving an increasing proportion of the Institute's annual budgets. In 1989, our Education and Public Information Program was divided among three offices emphasizing different aspects of education and dissemination functions—Education and Training, Publications and Marketing, and Public Affairs and Information. Our Jeannette Rankin Library Program is continuing to expand its capabilities to disseminate information through inter-library loans and sophisticated computer networking.

In the period ahead, these programs will produce printed matter and video products for the public at an increased rate with careful inventory controls, cost recovery efforts, and scheduling plans. We have also undertaken an extensive review of our mailing list, which we expect to yield greater opportunities to identify audience segments with specialized interests.

We also plan to initiate "portable programs" on international peace issues, which locally-based educational and civic organizations could conduct with assistance from the Institute. Programs would, to a large extent, feature fellows and others affiliated with the Institute.

## Program Diversity

**Question**: Mr. Ambassador, I am very excited about your Middle East program and the numerous issues that will be addressed by the Institute's scholars. However, in the wake of the Persian Gulf war and the opening up of Eastern Europe, I've sensed a concern from scholars and individuals associated with multinational organizations that certain geographic regions have not been given the necessary attention or resources that are critical for their continued development. Will the Institute's new 1992 projects include representation from all geographic regions, particularly areas such as East Africa and Central America where political conflict and violence continue to escalate?

**Answer**: The Institute's new 1992 projects will include representation from most, if not all, geographic regions. This assertion is based upon the following considerations:

•First, the Institute's "track record" has significant geographic breadth in both subject matter and individual or institutional involvement. We have no reason to anticipate that this breadth will retract; in fact, we would expect it to continue to expand. The following listing illustrates that scope:

Grants, fellowships, and in-house projects have included subjects drawn from the following countries or regions: (a) in Africa, all of Southern Africa and the Horn; Northeast Africa, including Morocco and Libya; Nigeria, and Chad; (b) in Asia, Afghanistan, Bangladesh, Cambodia, India, Korea, Laos, Nepal, the Pacific Rim, Pakistan, the Philippines, the People's Republic of China, Sri Lanka, and Tibet; (c) the Soviet Union, certain Soviet states such as Ukraine, and all countries of Central and Eastern Europe; (d) in Latin America and the Caribbean, Argentina, Bolivia, Brazil, Chile, Colombia. Ecuador, El Salvador, the Falklands/Malvinas, Guatemala, Haiti, Mexico, Panama, Peru, and Uruguay (e) in the Middle East, Iran, Iraq, Israel, and Lebanon; and (f) in Europe, all of Eastern Europe, Germany and Northern Ireland. Many projects, of course, address multinational or regional issues of concern to specific countries. In addition, substantial and growing emphasis is being placed on the peace and security functions of international and regional organizations, including the United Nations, the South Asian Association for Regional Cooperation (SAARC), the Association of South East Asian Nations (ASEAN), the Organization of American States (OAS), and the Organization of African Unity (OAU). The Institute is particularly interested in the role of the OAS in Central and South America.

The geographic distribution of Institute projects is equally broad, both in the United States and overseas. While the majority of grants are awarded to U.S. institutions, grants have also been made to universities and research organizations in Argentina, Australia, Austria, Canada, Chile, Colombia, Egypt, England, France, Germany, Hungary, India, Israel, the Philippines, and Togo. Although the majority of fellowships have been awarded to American citizens, fellowships have also gone to graduate students in U.S. universities and to other scholars and practitioners from Australia, Canada, Czechoslovakia, England, Ethiopia, Germany, Guatemala, India, Israel, Italy, the Netherlands, Pakistan, the Philippines, the Soviet Union, Sri Lanka, the Sudan, Venezuela, and Uganda. While an individual's nationality does not, of course, determine the subject matter he or she is working on, a number of these individuals naturally are engaged in projects which relate to their homelands.

•Second, the grant program features an annual solicitation, in which the Institute identifies one or two topics to which it wishes to direct particular priority attention. In addition, there are two cycles for unsolicited grants, in which the Institute considers applications for work in all areas within our compass. For the past two years, the two solicitation topics have focused on conflict resolution in Latin America plus one other subject. In East Africa, a number of grants and fellowships were funded in earlier years. Because of the increasingly high levels of violence and death in the Horn in particular and the deterioration of civil society in other East African states, it is likely that an increase in attention will follow, both in projects initiated by the Institute and as a natural course in the semiannual unsolicited grant competitions and the fellowship area.

•Third, the overall demand for grant and fellowship support is increasing significantly with no reduction in applicant quality. While the Institute's in-house programming, particularly its study groups, has been concentrated heavily in a regional sense on East-West concerns and has now added a major focus on the Middle East, grants and fellowships have been directed to a very wide variety of topics and regional concerns.

•Lastly, the Institute's concern with regional breadth along with diversity in subject matter and point of view is further demonstrated by the tentatively titled Report on the State of World Peace. This report will be issued periodically, with the first issue scheduled to be published in 1991. It will describe conflict and peacemaking activities in 13 regions that span the entire globe. Each regional survey, which runs from 60 to 120 pages in manuscript length, covers (a) ongoing and potential conflict in the region for the year in question and (b) the presence or potential for peacemaking in the region. Examples are one survey which is devoted to Central America, Mexico, and the Caribbean and another which is devoted to West, Central, and East Africa and the Horn. In each survey, emphasis will be given to ongoing interstate conflicts and to those events within states that can intensify possibilities for the outbreak of interstate violence.

## Education and Training Programs

**Question**: Although I am quite familiar with the various aspects of the Institute's work, I am especially interested in the Education and Training programs the Institute supports. I was pleased to learn that the Institute took the lead in designing a public television special on the history of U.S.-Soviet detente, and that this was later formulated into an instructional video series for teachers. Would you describe other projects the Institute has planned for 1992 that make use of public television and video for transmission to the public and individual school systems?

**Answer**: In fiscal year 1992, the United States Institute of Peace tentatively plans to produce a second video series on peace and conflict resolution issues, depending on the availability of funds and on prior market research. The series would build upon the experience of the series now being completed on the Cold War, and again would emphasize the relationship between twentieth century history and current affairs, will feature footage of historical events and interviews with major participants, and will include a detailed teaching guide.

Directed principally, but not exclusively, to secondary school students in grades 9-12 throughout the United States, the series would be distributed by a nationally recognized marketing firm with a clear record of success in the secondary school market for educational materials. In addition, the series should be of considerable interest to instructors in community colleges, four year colleges, and universities. The series will be of public broadcast quality and will be made available to Public Broadcasting System stations through one of its distribution affiliates.

The series will be divided into four to six half-hour sections, and each section will be further divided into two modules to provide for flexible use by classroom teachers. Each film in the series will contain a substantial amount of documentary footage, as well as interviews with those who played a key role in the events being portrayed; thus, the films will bring historical depth to their subject matters. Each of the films will be accompanied by a teaching guide to assist teachers in the most effective classroom use of the videos. These teaching guides will contain such elements as relevant chronologies and maps, bibliographies, and time lines. As the films are produced, there will be solicitation of advice from a focus group made up of teachers and curriculum specialists to insure that both the approach and the material covered are deemed valuable by those who would be expected to use the films.

This statement of characteristics for the fiscal year 1992 film series can be advanced with some confidence, since we have now completed three of the five videos in our current "Breaking the Mold" series on Soviet-American relations since the end of the Second World War. The final two videos will be completed during this fiscal year. The three completed parts of this series have the characteristics outlined here, have received very favorable early reactions, and are just now being marketed by the Encyclopaedia Britannica Educational Corporation. (For a description of other television and video projects funded with Institute grants and fellowships, see page 59 of the Institute's Budget Request for Fiscal Year 1992.)

While we have not made a final determination about the subject for the fiscal year 1992 film series, we are considering a number of options:

1. A series dealing with the peacemaking efforts of American Presidents and Secretaries of State, such as President Theodore Roosevelt's successful effort to end the Russo-Japanese War and the institution of the Marshall Plan under President Truman.

2. A series dealing with how the history of the Middle East since 1900 contributed to the Gulf Crisis.

3. A series using Nobel Peace Prize laureates and others to exemplify contrasting approaches to the peacemaking process.

4. A series dealing with ethnic conflict as a challenge to peace-building and peacemaking around the world.

Before deciding which subject matter will be the focus of the series, we will consult extensively with teachers and curriculum specialists of varying perspectives to determine what professionals in the secondary school education field regard as the most important topics to supplement existing classroom materials.

## Cooperation With Other Institutions

**Question**: Given the dynamic changes in the world today and the complexity of the multilateral issues that confront us, it seems that much can be gained by sharing information and promoting debate among policymakers with different perspectives. Does the Institute cooperate in joint programs or projects with other foreign affairs organizations?

**Answer**: Yes, the Institute does cooperate selectively with other organizations, keeping in mind the congressionally-mandated concern that the Institute safeguard its reputation (for instance, with respect to the use of the Institute's name) and the requirement that the Institute not receive private gifts or contributions. In addition, the Institute has hundreds of contacts with other organizations, through projects funded by grants (some grantees' projects receive additional funding from nonprofit foundations), the library's participation in information networks, and the work of Institute fellows and various in-house seminars and working groups, all of which draw upon many individuals associated with other organizations.

**Question**: Can you briefly describe some of the collaborative work that is now underway?

Following are examples of the carefully selected collaborative work the Institute has engaged in:

•On several occasions, the Institute has convened programs together with the Woodrow Wilson International Center for Scholars. In the spring of 1990, for instance, we held a discussion at the Smithsonian of events in Romania, and in early 1991, the two organizations held a program on events in Yugoslavia. We anticipate a continuing mutually beneficial relationship with the Wilson Center.

•In order to identify issues and the most effective means of communicating the results of work on those topics by Institute-sponsored study groups, we consult with the Policy Planning Staff of the State Department, Congressional committees, and specialists from the foreign affairs community. While these consultations are done with some detail, decisions on subject-matter, procedure, and product are controlled by the Institute. Examples include (a) the study of medium-term (3-5 years) problems in Central and Eastern Europe, a study which began only weeks before the democratization movement swept that region, and (b) the series of Middle East working groups which have been convened recently in response to the Gulf war.

•In the current fiscal year, we have met formally with senior officials of the Organization of American States and scholars in the field of conflict management to review with them the OAS' efforts in peacekeeping and conflict resolution and to assess whether or not there are ways the Institute might be helpful to the OAS in this area.

•During fiscal year 1990, we cooperated with the Research Coordination Center of the Soviet Ministry of Foreign Affairs in a historical project on the origins of the Cold War. The Institute and the Soviet Center brought together leading American and Soviet historians for programs in Moscow and Washington, followed by meetings with top level officials from the respective governments. Among the outcomes of that projects are: advancement of the opening of the Soviet Foreign Ministry's archives; the Institute's publication of an occasional paper entitled Origins of the Cold War: The Novikov, Kennan, and Roberts "Long Telegrams" of 1946, which includes the first English translation of the previously secret Soviet document interpreting U.S. intentions after World War II; and the determination to continue the relationship with a similar program on another subject, such as a joint study of Soviet and American negotiating styles or an exploration of what the two countries might do to assist the development of the rule of law as a component for resolving ethnic conflicts, especially in Eastern Europe.

## Middle East Initiative

**Question**: Ambassador Lewis, I see that the Institute's 1992 request includes $1,675,000 for new projects within the Special Middle East Peacemaking and Conflict Resolution. I understand this program is a direct outgrowth of the Gulf crisis and was conceived after the initial FY 1991 request was prepared. Can you briefly describe the kinds of activities you are planning to undertake with this increase and the additional personnel required to staff the program?

**Answer**: The Institute's response to the Gulf crisis—the Special Middle East Program on Peacemaking and Conflict Resolution—involves bringing together experienced active and retired diplomats and policymakers, leading Middle East analysts and scholars, and specialists in conflict management to examine several key aspects of the post-Gulf War Middle East and new opportunities created for controlling the regional arms race, rejuvenating Arab-Israel peacemaking, etc. That the Institute is able to mount such an initiative now is a direct consequence of the interlinked programming activity which has been nurtured over the past five years and the Institute's convening power. The activities, described below, are largely patterned after those which the Institute has already tested and refined.

Study groups. Five informal study groups composed of high level experts are planned. Because of the urgency of the issues, four have already been launched in the current fiscal year, using funds which had been previously allocated for other purposes; those activities are being slowed or postponed. The groups are dealing with the following subjects: (a) controlling the Middle-East arms race; (b) lessons from previous Arab-Israeli peacemaking experience;` (c) peacekeeping and security arrangements for the Gulf region; and (d) lessons from the Gulf crisis for strengthening the United Nations and the international collective-security system against aggression. The fifth study group will begin work in the fall and will be looking at the future course of political/social dynamics in the Arab world. Each study group will operate through fiscal year 1992. I will give overall direction, and coordination will be provided by an active-duty or retired senior U.S. diplomat. The first coordinator is Ambassador Hume Horan, former U.S. ambassador to Saudi Arabia, the Sudan, and Cameroon.

Fellowships. In selecting fellows who will begin work at the Institute in September, the Board chose four whose projects relate directly to Middle East peace. An Israeli diplomat-scholar will write about the problem of transforming formal peace into reconciliation, based upon his experience as Israeli ambassador to Egypt; a Lebanese scholar from the American University in Beirut will examine the impact of the Gulf crisis on the Arab world; an Indian professor from an American university will study conflicts over the waters of transnational rivers; and an American political scientist will examine the prospect that a Palestinian state could resolve the Arab refugee problem. The selections to be made in fiscal year 1992 for work which will largely take place in fiscal year 1993 will reflect the Institute's particular interest in the Middle East.

Grants. We are considering a special solicited grant topic that would focus on peace in the Middle East. That decision and the exact formulation of a question will be taken up at the Board of Directors' meeting in September. We anticipate that the Institute will receive a number of excellent proposals stimulated by the Gulf crisis and the possibilities of movement toward peace.

Library. The library is emphasizing the collection of primary documents about the peacemaking aspects of the Gulf war, including the congressional debate, UN proceedings, and selected items of "gray literature" which may be less available over time. The intention is to develop a useful resource which, in combination with the collections of other libraries, will facilitate longer-term studies of the Middle East peace process.

Publications and Outreach. Centrally important to the Special Middle East Program is our ability to communicate findings to decision makers in government, to Congressional committees and staffs, to others who influence policy, and to educators, especially in colleges and universities. Our study groups are constructed around the principle that pertinent findings need to be communicated swiftly as well as cogently. We anticipate a regular flow of short papers, largely produced in-house through desk-top publishing, which will be disseminated to target audiences and be made available subsequently to the interested public. To supplement the work of the study groups, we have begun a thorough review of all Institute activities to date which deal with the Middle East, from grant products and grants which have not yet been completed to the work of fellows to Institute-directed projects, in order to identify those which in whole or in part are applicable to issues arising from the Gulf crisis. While some subjects are already evident from the variety of discussions which the crisis has stimulated, others may be currently obscure and await illumination by our study groups. From this survey, we will prepare an in-house database as well as a publicly-available listing of relevant Institute activity.

Personnel needs. In staffing the Special Middle East Program, we are establishing a small coordination unit that will draw on the work of our other program units. The coordination staff will include a general program coordinator, a program officer, and a secretary. We also expect to add at least one position to our regular program staff because of the increased work load from the special program. The experts who are brought together in each study group may require honoraria for key participants and will incur travel expenses, except for Washington-based government personnel. As the study groups progress, we expect to draw increasingly on selected experts from overseas, adding to travel costs. Each study group will be served by an experienced rapporteur, charged with reporting on meetings and preparing papers for circulation and prompt publication. At best, only one of those rapporteurs can come from the Institute's existing staff. The library program will contract for the services as necessary to help develop its special collection. Publications will require additional contract services to ensure that papers and reports are produced rapidly and disseminated most effectively.

## FY 1992 Budget Request

**Question**: I understand that $8,911,000 is included in the President's 1992 budget for the Institute of Peace. The Institute's request before us today certainly reflects a substantial increase above this amount. Aside from the Middle East initiative, what expanded program areas does your request provide for that are not included in the President's budget request?

**Answer**: Aside from the Special Middle East Program, the Institute is requesting an appropriation of $10,243,000 for fiscal year 1992. This amount is $1,332,000 more than the President's budget request for the Institute of $8,911,000.

Restricting the Institute's programs to the level of the President's request would limit the Institute to a "no-growth" level of activity in a time of historic international challenges to peacemakers. As described in the Institute's budget request, funding at the level included in the Administration's budget request would stretch our resources so thinly that the Institute's ability to contribute to the nation's responsiveness at this historic moment would be severely impaired.

During the past two years, the Institute sharply restricted the size of three of its most basic programs—grants, fellowships, and library—in order to fund new initiatives related to the Soviet Union, Eastern Europe, and conflicts in the Third World, despite a significant increase in demand for those programs. For fiscal year 1992, the Institute proposes to renew a modest rate of expansion for these basic programs. This would allow slightly larger grants to be awarded. With the average grant running about $30,000, the Institute has been able to reach a good number of individuals and institutions, but it has been seriously hampered in its ability to play an important funding role for more complex, sophisticated, and multiyear projects. The increase would also allow the fellowship program to grow only somewhat beyond the current level and make some difference in the subject-matter scope of the program. The increase would allow the library program to continue its conservative growth path, while also taking more advantage of the technological revolution in information management. The President's "no growth" level would make those developments in basic programming impossible. In addition, the "no growth" level has no allowance for the Institute to pay the costs for or to award the newly authorized Spark M. Matsunaga Medal of Peace. It would severely retard the development of the Education and Training Program, particularly the video production project and other initiatives directed to secondary school teachers. And it would cause a serious slowdown in printing and distributing the products of the Institute's own projects and the work of our fellows and grantees.

## NATIONAL COMMISSION ON ACQUIRED IMMUNE DEFICIENCY SYNDROME

### STATEMENT OF JUNE E. OSBORN, M.D., CHAIRMAN

### ACCOMPANIED BY CARLTON LEE, LIAISON OFFICER

### BUDGET REQUEST

Senator Harkin. We will now hear from the National Commission on Acquired Immune Deficiency Syndrome.

The Commission's fiscal year 1992 request is $3 million, an increase of $72,000 over last year's level.

This Commission is charged with promoting the development or a national policy on AIDS and providing recommendations on the most effective methods to employ for controlling the spread of AIDS nationwide.

Dr. Osborn, I would like to welcome you back before the subcommittee. I want to commend you and the other Commission members on your work this past year and a half. The policy recommendations the Commission has presented on AIDS and the HIV epidemic have been invaluable to this subcommittee as we appropriate the money.

I know you share my sadness and concern over the vast amount of work that we have ahead of us in the 1990's. With over 100,000 deaths from AIDS to date, this tragic disease has taken a toll on our society and seems to be affecting younger women and infants at an alarmingly increasing rate. So, Dr. Osborn, I am looking forward to hearing your views on these issues so we can continue to map out a clear and active strategy to combat this epidemic.

So, Dr. Osborn, again welcome. Your statement will be made a part of the record. If you could summarize it, I would be most appreciative.

Dr. Osborn. Thank you, Senator. Thank you for your welcome. I am pleased to be here.

With me is Mr. Carlton Lee, who is our liaison officer. Sadly Maureen Byrnes, who you know, could not be here because a very dear friend died of AIDS and she is at a funeral, which I am afraid will become a more frequent event for all of us in the upcoming times.

Senator Harkin. Please give Maureen our best regards.

Dr. Osborn. I certainly will. She sends her apologies.

As you know, the National Commission on AIDS is charged with promoting the development of a national consensus on policy concerning AIDS and of studying and making recommendations for a consistent national policy.

Allow me to take this opportunity to commend you and other Members of Congress for the passage of both the Americans with Disabilities Act and the Ryan White Comprehensive AIDS Resources Emergency Act during the last session. The implementation of these acts will have far-reaching consequences for all those living with HIV disease.

Thus far, over 164,000 Americans have been diagnosed with AIDS and, as you just noted, over 102,000 of these individuals have died, close to 120 people are dying every day now, and I am sad to say probably over 150 are becoming infected every day. All of these numbers will escalate dramatically over the next several years. Nearly 1 million Americans face premature illness from HIV infection, and the minimum number of new infections each year—the minimum number—is 45,000. The more likely number is somewhere between two and five times that many. Since the interval between onset of infection with HIV and AIDS is commonly up to 10 years, each increment assures us of certain trouble into the 21st century now.

Confronted with the increasing human toll of the HIV epidemic, the Commission early in its tenure recognized the need to intensify national efforts to understand and meet the needs of people living with HIV disease and to stop the spread of HIV infection. Accordingly, the Commission in its work has endeavored to create broad public agreement on the magnitude, scope, and in particular, urgency of HIV epidemic.

The Commission has also sought to inspire leadership at all levels of both the public and private sectors to put in place effective, cooperative and nondiscriminatory systems and resources required for prevention, comprehensive care, and research efforts necessary to halt the epidemic.

We continue to fulfill our statutory mandate through public hearings, meetings, round table discussions, staff analyses, and interim reports, as well as site visits that we have made throughout the country. These forums provide a foundation for decisionmaking by providing an opportunity to consider expert testimony on the increasingly complex issues related to HIV disease, and by giving the Commission occasion to interact with and learn from care providers and persons living themselves with HIV disease in their own communities.

Since we began our work 19 months ago, we have heard from as many as 700 individuals and organizations from over 75 cities. We have issued three interim reports, an annual report, and are about to release a fourth report on HIV disease in correctional facilities. All of our earlier reports have been provided to the subcommittee and I believe are part of the record.

The activities of the Commission during the past year have reinforced our view that the Nation has far to go before we can claim victory in the war on AIDS. Based on what we have seen and heard, it is clear that the decade of the 1990's will be far worse than what we have thus far experienced. The epidemic continues to spread throughout the Nation, and our educational efforts have yet to take on the urgency needed to meet the demands of this terrible disease for which there will not be for some time a vaccine or a cure. As the caseload grows, there will be ever-increasing strains on the Nation's already faltering health care financing and delivery systems, an issue that we consider to be top priority. In fact, I should point out to you that the stresses and strains that you have heard about in the AIDS epidemic relate to the surviving 60,000 cases of AIDS, with 10 times that many currently in need of care.

At this time I would like to highlight some of our findings and recommendations of the past year.

In April of last year, the Commission issued its second interim report to Congress and the President. Key among the recommendations was a call for an establishment of a Federal interagency mechanism to coordinate a national plan for combatting the epidemic. The Commission found that a lack of clear definition of government roles at all levels has hampered our national ability to organize health care services, to recruit and train health services personnel, to provide housing for the sick, to provide effective HIV education and prevention programs, to provide coordinated, comprehensive substance abuse treatment and prevention programs, and to develop sufficient moneys to finance these efforts. All across the country there is a cry for leadership from the Federal Government and partnership between different levels of government and the private sector. There is no question that there have been creative and often heroic efforts at every level to address the HIV epidemic, but coordination of these efforts is the missing link to an effective national strategy.

The National Commission on AIDS will continue to recommend policy goals for a national plan. However, it is critical that a Federal interagency mechanism be in place soon so that those who are ultimately responsible for the implementation will have an active role in its development.

In August, the Commission issued its third interim report based on our findings concerning the HIV epidemic in rural America, in addition to issues concerning HIV in the health care work force, and the status of research initiatives. In the report the Commission called for an expansion of HIV education and outreach services in rural communities and additional resources to combat the three epidemics of HIV infection, drug addiction, and sexually transmitted diseases in rural America.

The report highlighted the need to address concerns about the limited number of enrollees in clinical trials at the National Institutes of Health, as well as the lack of demographic and geographic diversity of participants. The desperate need for more research on the management of opportunistic infections, usually the cause of death for people with HIV disease, was also stressed.

Finally, the report called for immediate actions to deal with a shortage of crisis proportions of health care providers capable and willing to care for people living with HIV disease.

Last summer we went to New York for a firsthand look at HIV disease in correctional facilities. As mentioned earlier, a report based on the powerful testimony we heard from corrections and prison health professionals from New York, but also from all around the country, as well as testimony from present and past detainees, will be issued in just a week or so by the Commission.

Last November we conducted hearings and site visits to examine the effects of the HIV epidemic on the Commonwealth of Puerto Rico, which has the second highest—San Juan has the second highest per capita rate of HIV in the country, the first being Washington, DC. It was clear that the epidemic presents a number of unique challenges to the Commonwealth.

In December the Commission held meetings in Baltimore to discuss issues surrounding the financing of health care for people with HIV disease. And as mentioned earlier, we consider health care financing issues to be of the utmost importance and will devote much of our time and efforts to this matter over the coming months in coordination with other groups that are looking at those issues. We also had extensive discussions in Baltimore in December with numerous individuals from around the country about the HIV epidemic in the African-American communities.

In January of this year, the Commission held hearings on substance use in relation to HIV. Preventing the spread of the virus among intravenous and nonintravenous drug users is a formidable task. The overlapping epidemics of HIV disease and substance use present our Nation with major challenges, and we will continue to focus much of our attention on this important issue.

A few weeks ago, members of the Commission conducted site visits to various parts of the country to see the impact of the epidemic in native American communities where it has surfaced with a vengeance recently. This past week the Commission conducted hearings and site visits in Chicago that focused on the HIV epidemic in Hispanic-American communities and among the Nation's adolescent and pediatric populations.

Over the next several months, we plan to examine HIV disease among women and bisexual men, Asian-Americans, as well as other communities. We will also be spending a good deal of time examining issues of prevention and considering the health care delivery and financing needs of people living with HIV disease.

In its statutory role of advising Congress and the President, the Commission is trying to play an active role in the policy debate around issues relating to the epidemic, as well as legislative initiatives, such as the Americans with Disabilities Act and the Ryan White Comprehensive AIDS Resources Emergency Act of 1990.

As I am sure you know, the Commission has also been proactive in calling upon the administration and Congress to reassess current U.S. immigration policy as it relates to HIV disease. We are very pleased that both Congress and the administration have taken excellent steps to rectify existing policy, and we hope that the issue is favorably and durably resolved soon.

As required by law, the Commission will submit a major report to Congress and the President late this summer.

In fiscal year 1992, we plan to continue to conduct our activities through a variety of forums in Washington and around the country. As the second decade of the epidemic begins, the challenges before us are many. It is critical that the public health strategies of the 1990's designed to meet these challenges receive top priority at all levels of government and the private sector.

## PREPARED STATEMENT

We will continue to fulfill our mandate with great determination and look forward to continuing our close working relationship with the Congress in the months ahead.

The President's fiscal year 1992 budget includes $3 million for the National Commission on AIDS. This is the amount requested by the Commission for the next fiscal year.

Thank you. I would be happy to answer your questions.

[The statement follows:]

### Statement of June E. Osborn, M.D.

Good morning, Mr. Chairman and members of the committee. I am Dr. June Osborn, Dean of the School of Public Health at the University of Michigan and Chairman of the National commission on AIDS. It is a pleasure to be here on behalf of all the members of the Commission.

As you know, the National Commission on AIDS is charged with promoting the development of a national consensus on policy concerning AIDS and of studying and making recommendations for a consistent national policy on AIDS and the human immunodeficiency virus (HIV) epidemic.

Allow me to take this opportunity to commend you and other Members of Congress for the passage of both the Americans with Disabilities Act and the Ryan White Comprehensive AIDS Resources Emergency Act during the last session. The implementation of these acts will have far-reaching consequences for all those living with HIV disease.

Thus far, over 164,000 Americans have been diagnosed with AIDS and over 102,000 of these individuals have died—close to 120 people are dying each day. All of these numbers will escalate dramatically over the next several years. Nearly one million Americans face premature illness from HIV infection and the minimum number of new infections each year is 45,000—the more likely number is two to five times that. Since the interval between onset of infection with HIV and AIDS is commonly up to ten years, each increment assures us of certain trouble further into the Twenty-first century.

Confronted with the increasing human toll of the HIV epidemic, the Commission early in its tenure recognized the need to intensify national efforts to understand and meet the needs of people living with HIV disease and to stop the spread of HIV infection. Accordingly, the Commission in its work has endeavored to create broad public agreement on the magnitude, scope, and urgency of the HIV epidemic.

The Commission has also sought to inspire leadership at all levels of both the public and private sectors to put in place effective, cooperative and non-discriminatory systems and resources required for prevention, comprehensive care, and research efforts necessary to halt the epidemic.

The Commission continues to fulfill its statutory mandate through public hearings, meetings, round table discussions, staff analyses, and interim reports, as well as site visits throughout the country. These forums provide a foundation for decision-making by providing an opportunity to consider expert testimony on the increasingly complex issues related to HIV disease, and by giving the Commission occasion to interact with and learn from care providers and persons living with HIV disease in their own communities. Since it began its work 19 months ago, the Commission has heard from as many as 700 individuals and organizations from over 75 cities. We have issued three Interim Reports, an Annual Report, and are about to release a fourth report on HIV disease in correctional facilities. All of our our earlier reports have been provided to the Subcommittee.

The activities of the Commission during the past year have reinforced our view that the nation has far to go before we can claim victory in the war on AIDS. Based on what we have seen and heard, it is clear that the decade of the 90's will be far worse than what we experienced in the 80's. The epidemic continues to spread throughout the nation and our educational efforts have yet to take on the urgency needed to meet the demands of this terrible disease, for which there is no vaccine or cure. As the caseload grows, there will be ever increasing strains on the nation's already faltering health care financing and delivery systems, an issue the Commission considers to be of top priority. At this time, I would like to highlight some of our findings and recommendations of the past year. In April of last year, the Commission issued its second Interim Report to Congress and the President. Key among the recommendations was a call for the establishment of a federal interagency mechanism to coordinate a national plan for combatting the HIV epidemic. The Commission found that a lack of clear definition of government roles at all levels has hampered our national ability to organize health care services, to recruit and train human services personnel, to provide housing for the sick, to provide effective HIV education and prevention programs, to provide coordinated, comprehensive substance abuse treatment and prevention programs and to develop sufficient monies to finance all of these efforts. All across the country there is a cry for leadership from the federal government and partnership between the different levels of government and the private sector. There is no question that there have been creative and often heroic efforts at every level of government to address the HIV epidemic, but coordination of these efforts is the missing link to an effective national strategy.

The National Commission on AIDS will continue to recommend policy goals for a national plan. However, it is critical that a federal interagency mechanism be in place so that those who are ultimately responsible for the implementation will have an active role in its development.

In August, the Commission issued its third Interim Report, based on our findings concerning the HIV epidemic in rural America, the workforce, and research.

In the report, the Commission called for an expansion of HIV education and outreach services in rural communities and additional resources to combat the three epidemics of HIV infection, drug addiction, and sexually transmitted diseases in rural America.

The report highlighted the need to address concerns about the limited number of enrollees in clinical trials at the National Institutes of Health, as well as the lack of demographic and geographic diversity of participants. The desperate need for more research on the management of opportunistic infections, usually the cause of death for people with HIV disease, was also stressed.

The report also called for immediate actions to deal with the shortage of crisis proportions of health care providers capable and willing to care for people living with HIV disease. Last summer, the Commission went to New York for a first-hand look at HIV disease in correctional facilities. As mentioned earlier, a report based on the powerful testimony we heard from corrections and prison health professionals, as well as past and present detainees, will be issued this month by the Commission.

In November, the Commission conducted hearings and site visits to examine the effects of the HIV epidemic on the Commonwealth of Puerto Rico. It was clear that the epidemic presents a number of unique challenges to the Commonwealth. In December, the Commission held meetings in Baltimore to discuss issues surrounding the financing of health care for people with HIV disease. As mentioned earlier, the Commission considers health care financing issues of utmost importance and will devote much of its time and efforts over the coming months to them. We also had extensive discussions in Baltimore with numerous individuals from around the country about the HIV epidemic in African-American communities.

In January, the Commission held hearings on substance use and the HIV epidemic. Preventing the spread of HIV among intravenous and non-intravenous drug users is a formidable task. The overlapping epidemics of HIV disease and substance use present our nation with major challenges and the Commission will continue to focus much of its attention on this important issue. A few weeks ago, members of the Commission conducted site visits to various parts of the country to examine HIV disease in Native American communities. This past week, the Commission conducted hearings and site visits in Chicago that focused on the HIV epidemic in Hispanic-American communities and among the nation's adolescent and pediatric populations. Over the next several months, the Commission plans to examine HIV disease among women, Gay and Bisexual men, Asian-Americans, as well as other communities. We will also be spending a good deal of time examining issues of prevention and considering the health care delivery and financing needs of people living with HIV disease.

In its statutory role of advising Congress and the President, the Commission has played an active role in the policy debate around issues relating to the epidemic, as well as legislative initiatives such as the Americans with Disabilities Act and the Ryan White Comprehensive AIDS Resources Emergency Act of 1990. As you may know, the Commission has also been proactive in calling upon the Administration and Congress to reassess current U.S. immigration policy as it relates to HIV disease. We are very pleased that both the Congress and Administration have taken excellent steps to rectify existing policy and we hope the issue is favorably resolved soon.

As required by law, the Commission will submit a major report to Congress and the President in late summer.

In fiscal year 1992, the Commission plans to continue to conduct its activities through a variety of forums in Washington, DC and across the country. As the second decade of the epidemic begins, the challenges before us are many. It is critical that the public health strategies of the 1990's designed to meet these challenges receive top priority at all levels of government and the private sector.

The Commission will continue to fulfill its mandate with great determination and looks forward to continuing our close working relationship with the Congress in the months ahead. The President's fiscal year 1992 Budget includes $3 million for the National Commission on AIDS. This is the amount requested by the Commission for the next fiscal year. Thank you. I would be happy to answer any questions you may have.

## TESTING HEALTH CARE WORKERS

Senator HARKIN. Thank you very much, Dr. Osborn.

I need a couple of answers here on a couple of items. The issue of testing health care workers. The recent case of the AIDS infected dentist in Florida, who appears to have infected some of his patients, has renewed fears about the spread of AIDS and different calls for the testing of health professionals.

What is the Commission's position on the testing of health care workers?

Dr. OSBORN. Well, the Commission's initial—we were asked when that issue surfaced to be the convener of discussions about it. And I am strongly of the opinion, as I think shared by the Commission in general, that when there are data and expertise that can be brought to bear on a policy, the problem, that that is the way to approach it, at least initially. And so, rather than rising to that bait, we urged CDC to do what they did wonderfully last month and to convene a conference in which all of the kinds of input necessary to consider sensible policy in light of that experience could be brought to bear. I am delighted to say, as I said publicly there, that CDC did an exceptionally fine job in organizing and conducting a meeting in which over 100 organizations and individuals had an opportunity to discuss the matter and bring forth their additional insights and data that might pertain.

And out of it came an early general consensus view that even the specific issue that prompted the discussion surely reflected stimulus or was a good stimulus for increased attention to so-called infection control procedures. It represents a unique event in the history of the epidemic. There has never before been a patient infected by a health care worker. There have been some health care workers, very few actually, but some, infected in their care of patients, but the reverse had never been true. And, indeed, in analysis and discussion in January—as you may know, I'm a virologist and an epidemiologist and pediatrician from background—it was my take that it still was not clear that there was any new or different transmission mode being demonstrated as opposed to a break in techniques that were beginning to be strengthened at the time those episodes occurred.

Now, the cost to the health care system of doing something unnecessary in the way of widespread testing and in particular of debarring somebody unnecessarily from using their trained talent in the care of increasingly large numbers of people is an enormous cost. So, it has to be worth it to do it. And I think at this point, I am very happy with the process that CDC has initiated. The comment period has just closed, and we have commented extensively. I would be most happy to provide you with my individual comment and the Commission will be having a brief comment roughly along the lines I am saying. But right at the moment, I am pleased with the process. And I view our role as a commission to be sure that the process of public decisionmaking is working well.

Senator **Harkin**. I appreciate that very much. Dr. Osborn, thank you very much for being here today. We look forward to working with you.

Dr. **Osborn**. My pleasure. Thank you.

## QUESTIONS SUBMITTED BY THE SUBCOMMITTEE

Senator **Harkin**. There will be some additional questions from various Senators which we will submit to you for your response.

[The following questions were not asked at the hearing, but were submitted to the Commission for response subsequent to the hearing:]

# QUESTIONS SUBMITTED BY THE SUBCOMMITTEE

## SHORTAGE OF HEALTH CARE WORKERS TO TREAT AIDS PATIENTS

Question. Dr. Osborn, in the Commission's last report, you indicated that the shortage of health care workers willing to treat HIV patients was reaching the crisis stage. The report notes that about 30% of physicians are reluctant to treat HIV patients, and that the numbers of dentists willing to serve HIV patients are also very low.

-- Has the situation changed since that report came out?

-- Given this situation, would you agree with the Administration's proposal to phase out most funding for training health professionals?

Answer. In answer to your first question, unfortunately, the situation remains virtually the same. As we reported, the shortage of health care workers willing to treat HIV patients is reaching a crisis stage. Given such evidence, it makes no sense to reduce funding or to phase out programs which seek to train health professionals.

## IMMIGRATION POLICY

Question. Secretary Sullivan has revised CDC's list of diseases that bar entry of visitors to this country, so that being infected with HIV will no longer prevent someone from entering the U.S. The Administration is willing to take some heat on this new policy.

-- What is the Commission's position on this new policy?

Answer. As you know, the Commission has played an active role in the discussions around U.S. immigration policy as it relates to HIV disease. The Commission supports the recent initiative of Secretary Sullivan to designate infectious tuberculosis as the only communicable disease of a public health significance for which an alien can be excluded from the United States. Efforts to terminate immigration policies based upon myth, prejudice, and social stigmatization are wholeheartedly embraced by the National Commission on AIDS.

## FUNDING FOR AIDS PROGRAMS

Question. As you know, the Budget Enforcement Act has placed severe restrictions on funds available for discretionary programs. We may well be looking at half of the funding growth between FY91 and FY92 that we enjoyed between FY90 and FY91. And I'm sure you are aware of the reception this Subcommittee got last year with our funding level of the Ryan White AIDS Programs.

Given the budget pressures we are sure to face, I want to get your opinion on two funding questions: the balance in funding among AIDS prevention, research, and services programs; and the concept of two-year funding.

-- What would you recommend as an appropriate funding split for AIDS programs among services, research, and prevention?

-- What is your opinion on two-year funding, as the Subcommittee first proposed in FY91?

Answer. The Commission has consistently called for appropriate funding for services, research, and prevention. The need to increasingly connect services to research has also been highlightled by the Commission. While recognizing the fiscal constraints confronting our nation, the Commission continues to support full funding of the Ryan White CARE Act to provide urgently needed resources throughout the country. Prevention efforts must receive more support as well, given that much more remains to be done to stop the spread of the HIV epidemic.

With respect to two-year funding, I believe that the dynamics surrounding any national crisis/emergency is best approached with as much flexibility/ability as possible. Two-year funding in cases such as an epidemic might prove more restrictive that productive.

## WOMEN IN AIDS RESEARCH AND CLINICAL TRIALS

Question. The issue of women and AIDS has been gaining attention recently. Given the sharply increasing numbers of HIV and AIDS cases among women, this makes good sense. Surgeon General Toni Novello recently said that AIDS research and clinical trials conducted to date have not invloved sufficient numbers of women.

-- Do you agree; and if so, what steps would you recommend to correct this situation?

Answer. In our third Interim Report, the Commission expressed serious concern about the lack of participation of women, people of color, and children in federally financed clinical trials. Recent initiatives such as the NIH Community Program for Clinical Research on AIDS, should help increase the numbers of women in trials and I would urge the the Subcommittee and the Congress to fully support programs that do so.

# PROSPECTIVE PAYMENT ASSESSMENT COMMISSION

## STATEMENT OF RICHARD BERMAN, MEMBER

## ACCOMPANIED BY DONALD YOUNG, M.D., EXECUTIVE DIRECTOR

### BUDGET REQUEST

Senator HARKIN. Our next witness is Dr. Stuart Altman, Director, Prospective Payment Assessment Commission. I am sorry. I am told it is Mr. Richard Berman.

The fiscal year request for the Commission is $4.2 million, an increase of $355,000 over last year's level.

I am sure I speak for all Members of Congress when I say that ProPAC's ongoing work on the prospective payment system has proven quite valuable these past 8 years. However, we are still struggling to balance the rising costs of health care with the need for improved individual access to medical care and treatment.

Mr. Berman, we still have, as you know, a lot of problems here with hospital closures, equitable reimbursement policies for hospitals across the Nation. So, I look forward to hearing your thoughts on these issues today.

Your statement will be made a part of the record in its entirety, and I will ask you to please proceed and introduce Donald Young. Why did I have Dr. Stuart Altman? Oh, he is the Chairman. I see. And Dr. Young is the Executive Director.

Dr. YOUNG. That's right.

Senator HARKIN. Now I have all the players straight.

Mr. Berman, thank you very much for being here and please proceed.

### INTRODUCTION OF ASSOCIATE

Mr. BERMAN. I am Richard Berman, a Member of the Prospective Payment Assessment Commission, and accompanying me is Dr. Donald Young, the Commission's Executive Director.

I will spare you reading through my testimony and just try to hit a couple of the highlights and allow you to probe in areas where you are most interested.

Recently Congress has expanded ProPAC's responsibilities, and now our mandates include all inpatient hospital services, as well as facility components of the outpatient areas, skilled nursing, home health, freestanding units, and end-stage renal disease facilities.

In addition, we have responsibilities related to Medicare's interaction with the entire health care system and its cost. It becomes clear that some of the interactive forces are other payors, and that is why Congress asked us to take a look at Medicaid and uncompensated care. And so, we will report on that.

You have received our March 1991 report to Congress on time again. And I think it is again a mixed story that we are reporting on. Expenditures and payments for Medicare have been reduced since the introduction of the prospective payment system [PPS]. Where there were double digits increases before, there are single digits now. On the other hand, we have not necessarily fundamentally changed the cost structure of hospitals. Hospital expenses continue to go up 10 percent a year, and I think that is still troublesome for a lot of us. However, the total financial condition of hospitals in general is about the same as immediately pre-PPS and better than in the good old days of the 1970's.

## RURAL HOSPITALS

Let me spend a little time on some of the rural hospital issues and focus on those.

We will be putting together, as you have asked us to, probably in the July-August timeframe a report targeted at issues of rural health care delivery. The report will be broader than just the payment issues. It will also address access and quality issues which have also been on your mind, Mr. Chairman.

A couple of early findings are that where we used to think of uncompensated care as only being a big city issue, it turns out to be a very significant issue for the rural hospitals. And in the last 10 years, the costs of uncompensated care has been increasing at about 12 percent a year, and the proportion and the share of it turns out to be very similar between rural and urban institutions.

As I said, we will report on Medicaid, as requested by Congress, in October. As you know, we have looked at the issue of differential payments between urban and rural hospitals. We recommended that the differentiation in the standardized amounts be eliminated over 3 years, and OBRA has done it over a 5-year period. But I think we are making great progress in dealing with what was an inequity.

## WAGE INDEX

The area wage index has been addressed in our March 1991 report where we recommended improvements by eliminating skill mix as a variable which will have a significant impact to the rural——

Senator HARKIN. I haven't seen that. I am interested in that. I will take a look. I will find out what the variable was you took out.

Dr. YOUNG. The wage index that was structured measured the price of labor, but also the complexity of the types of personnel so that more complex personnel required to do more complex procedures was measured in the wage index. The end result is that hospitals in cities, hospitals that did complex technologic kinds of things, were being over-compensated for their care.

The effects of our recommendation would be to remove that occupational mix component. The end result will be that the wage index in rural areas will go up, and the wage index in urban areas will come down. The urban hospitals are already receiving payments through the DRG's for the more complex mix of patients. So, it will be a better measure of the actual price of labor faced both in urban and rural areas, but it will be to the advantage of rural hospitals.

Senator **Harkin**. Thank you very much.

Mr. **Berman**. And it was specifically the way you raised the question 2 years ago and last year again that was addressed by ProPAC.

### OUTPATIENT PAYMENT

Senator **Harkin**. I appreciate that. Thank you.

Mr. **Berman**. The only other two or three areas I was going to address quickly, Senator, were in your committee report language where you raised questions with respect to the outpatient rate. The Commission, after deliberations, said there ought not to be separate urban and rural rates. Our approach includes freestanding rates. Since most of these facilities are in the urban areas, this would give a boost, if you will, when you give that average to rural hospitals. And that was our recommendation.

Recently there is more pressure as payment for outpatient care for everybody got cut back. And we will have to take a look at that because rural hospitals have a larger share of their total revenue related to outpatients. So, I think the cuts may have had a greater impact in the rural areas, and we will be looking at that.

Senator **Harkin**. It's not in this report, though.

Mr. **Berman**. It is not in this report.

Dr. **Young**. The point is that OBRA90 further cut payments for outpatient hospital services, urban as well as rural.

Senator **Harkin**. I see.

Dr. **Young**. Since rural hospitals have a larger share of their revenue as outpatient, compared to inpatient, they will feel the squeeze of that cut even more than urban hospitals will. Our recommendation in our initial report did not separate out urban and rural payments; that is, it didn't create two payment amounts as PPS had done. However, that recommendation would still be difficult for rural hospitals because of the OBRA89 and OBRA90 cuts which affect all hospitals. Now, that is a balancing act of how to keep Medicare spending under control and yet meet the needs of hospitals.

Mr. **Berman**. So, that is the problem, and we will highlight that problem again in the rural report that we are doing.

The other topic that you asked us to look at was nonphysician practitioners, and we will include that in the June report.

So, I just wanted you to know that we were responsive and listening.

Senator **Harkin**. Well, I certainly appreciate that. Thank you. I do appreciate your looking at those and addressing those issues so expeditiously. Thank you.

### RURAL TRANSITION GRANTS

Two years ago we started a new program called the Rural Hospital Transition Grant Program. And actually this is the second year really that it is being funded. And the input that we are getting from a lot of rural hospitals is they really like is because it gives them some wherewithal to expand some services and to try to refocus from just acute care to other things. That's about the only way you're going to save it.

The theory behind it is that some of these small rural hospitals cannot just exist as acute care facilities. They just don't have the patient load. But they can exist as some primary care facility, as some acute care for limited things, emergency care before they have to go on to a major hospital someplace. But if they close up, they will not even have that. So, the rural transition grants get them to look in and do other things, provide other kinds of health services to keep their doors open so that they wouldn't have to just be acute care. All right.

We have had some experience with that now for a couple of years. They seem to be doing well with it. They have expanded services. The input that we are getting is that it has been well-received and they are using that to do just what we intended.

Well, now here comes the other side of it. Not that we hadn't thought of it. We thought, well, we would address it later on. And that is when they start doing that, what impact does that have on their payment system if they start getting into these other areas. Here we give with one hand and take away with the other. And they are saying wait 1 minute. In good faith we are going ahead and doing these things, but it may be impacting our payment system. You probably have not looked at it, but again I am in the position of asking you again to take a look at that and let us know what is happening.

Dr. YOUNG. Yes; I very much share your concerns, Senator.

There are two separate programs that are being run as partial demonstration and partial operating programs. The rural transition grant is one. The other one is known by its acronyms, EACH's and RPCH's, the Essential Access Community Hospital Program. They are supposed to be in conjunction. The rural hospital groups that I have spoken to generally, as you stated, support the transition grant program, but they have a lot of concerns about the EACH's and the RPCH's program and the way that the legislation was drafted and the way that it has been implemented.

Now, the Commission did discuss this at their last meeting. We are waiting now for the regulations from HCFA on the EACH's and the RPCH's side. That is a very important component to address what you are asking.

The second component, though, is even more important. And I answered a question on this to you 3 years ago when the program first asked for funding. And that is my concern that we have defined a hospital and put on it a number of requirements. As you are implying, in a rural area, you need something that doesn't fit the mind set of a hospital.

Senator HARKIN. Right.

Dr. YOUNG. And yet, we are asking people to move that direction, but our financing system, both Medicare and Medicaid, and private insurance is scared about the potential abuse of people coming in and therefore is very reluctant to fund it. So, we are creating a paradox for the poor people in the rural areas trying to respond, by saying respond and trust us and maybe we will pay you later, but maybe we won't pay you later. And I think that is the essence of the problem.

And there is the chicken and an egg part to that. What comes first? The funding through third parties for care or the structural change? Now, the transition grant program is supposed to provide that. If it is going to provide that, though, for our whole Nation, it would certainly require a great deal of expansion over where the program is now. It is reasonable to gain some experience with it, but at some point you may need to operationalize it and that will undoubtedly require more funding.

But to answer your question, we have been concerned about it, and it is something that we are following.

Senator Harkin. Good, as long as you are following it. You say you have to wait on the EACH's and RPCH's program.

Mr. Berman. We haven't even seen the regulations from HHS yet.

Dr. Young. There will be an evaluation panel of the applicants for the EACH's and the RPCH's, and HCFA is funding this, but several of the ProPAC staff will be involved in the evaluation of that as well as the rural transition grant program. We have been involved in the evaluation of the applications.

Senator Harkin. Just one more, but I have some more I will just submit to you in writing.

### HOSPITAL VOLUME DECLINES

Your annual report states that a per-case payment system like PPS puts small hospitals and hospitals experiencing large volume declines at substantial risk.

We requested last year that you include in your report the impact of less than average patient volume on overhead costs and reimbursement, especially in small hospitals. Staff was telling me the 1991 report did not appear to focus explicitly on this issue.

Could you tell me about that?

Dr. Young. Yes; we read the committee report language to indicate that that requirement was in the special report we are submitting to you on rural hospitals. You asked us to look at the issue of fixed and variable costs, which were are looking at. We're looking at an automatic volume adjustment. We have just completed with our research dollars a survey of State Medicaid programs some of whom use volume adjustments. So, all of that work will be in the special report that you requested, and we read that language to apply to the report on rural hospitals, not our general report.

Senator Harkin. Very good.

Mr. Berman. And that report we are shooting for summer, July, August, after our June report.

Dr. Young. Yes; it will be submitted to you probably in July.

Senator Harkin. Good.

Mr. Berman. So, that's the timeframe.

Senator Harkin. Well, that's good. I appreciate that very much. Thank you both very much, and I look forward to working with you in the months ahead. We will look at this and also the June report and also the special——

Mr. Berman. You will get the June report. You will get the capital report in the middle of May. Then you have the rural report. Then you have the staff——

Senator **Harkin**. Staff. No summer vacations. Right? [Laughter.]

Mr. **Berman**. I just want to make it clear again that we would really like a chance to work with you and your staff probably a little closer than we have in the past. So, we look forward to that.

Senator **Harkin**. Absolutely. And we will get together off the record and outside of a hearing and just get together and work some of these things out.

Mr. **Berman**. Terrific.

Senator **Harkin**. Thank you.

Mr. **Berman**. Thank you, sir.

Dr. **Young**. Thank you.

## QUESTIONS SUBMITTED BY THE SUBCOMMITTEE

Senator **Harkin**. Thank you, Dr. Young.

There will be some additional questions which will be submitted for your response in the record.

[The following questions were not asked at the hearing, but were submitted to the Commission for response subsequent to the hearing:]

## QUESTIONS SUBMITTED BY THE SUBCOMMITTEE

### Rural Hospital Study

Senator Harkin: I was alarmed to read in a recent CBO study that, between 1980 and 1988, the number of hospital beds declined 15% in rural areas but less than 1% in urban ones.

The Committee believes that many rural hospitals are continuing to suffer financially due to inequities in PPS payments, and the continued negative PPS margins for rural facilities certainly confirm this.

Your annual report briefly mentions that ProPAC is undertaking a comprehensive study of how PPS policies affect rural hospitals. I am hoping your study examines the issue raised in the Committee's 1991 report concerning reimbursement levels to rural hospitals under PPS if the correct adjustment factors had been applied since 1983.

When do you expect your comprehensive study to be completed? Would you please describe the scope of this rural hospital study and outline some of your initial findings?

Mr. Berman: We plan to submit the special report you requested in late July or early August. It will cover all the topics discussed in last year's Committee report. We are examining the decline in rural hospital admissions, the pattern of overall hospital and other service use by rural beneficiaries, the impact of declining admissions on different types of rural hospitals, especially those in areas with low population density, and the financial performance of rural hospitals and hospital closures. We are also looking at the design features of PPS and the effects on payments if recent adjustments had been in place since the beginning of PPS. Other topics include the definition of sole community hospitals, the appropriateness of using the same DRG weights for urban and rural hospitals, the feasibility of using an automatic volume adjustment, the use of swing beds in rural areas and the impact on hospitals, and possible improvements to the EACH and RPCH program.

We are nearing completion on our work related to the relationship between occupancy, volume declines, and fixed costs. We have found that on average, fixed costs represent 42 percent of total costs for rural hospitals but only 27 percent of costs for urban hospitals. Fixed costs, however, represent as much as 65 percent of total costs for rural hospitals with occupancy levels below 40 percent and only 34 percent of total costs in rural hospitals with an occupancy rate of 60 percent or more.

We have also completed our analysis of volume adjustments used by the Medicaid program, and we are examining the applicability of the findings to the Medicare program.

In regard to the hospital admission declines, we have found that the difference between urban and rural hospitals is even more striking than you mentioned. Between 1980 and 1990 rural hospital admissions decreased 35 percent while the decrease for urban hospitals was only 3.6 percent.

This decrease in admissions to rural hospitals does not mean that rural beneficiaries are not being admitted to hospitals. We have just completed an update of our earlier study and have found that rural beneficiaries continue to be hospitalized at a slightly higher rate than urban beneficiaries. This is because they are receiving an increasing number of more complex services in urban hospitals. In addition, rural beneficiaries use of physician and other ambulatory services is very similar to urban beneficiaries.

We have many other findings which will be in our report to you.

Low Volume Hospitals

Senator Harkin: Your annual report states that "a per-case payment system like PPS puts small hospitals and hospitals experiencing large volume declines at substantial risk."

Last year, the Committee requested that ProPAC include in its report the impact of less-than-average patient volume on overhead costs and reimbursement, especially on small hospitals. Your March 1991 report did not appear to focus explicitly on this issue.

Please describe your research in this area to date.

It just seems to me this will be an intractable problem unless we begin to study the subtle "economy of scale" factor that may be operating here. For example, some health experts have noted that larger, high-volume, typically urban hospitals are able to use their experienced staff and sophisticated equipment to reduce the administrative cost per patient.

Does your analysis include a study of the impact hospital administrative staff size and the information systems budget have on average Medicare payment per patient?

In your view, is this a significant factor worth including in future analyses?

Mr. Berman: As I noted, ProPAC has completed much of its work related to occupancy and fixed costs. We understood your Committee report language requested us to include these findings in the comprehensive rural hospital report we will be submitting this summer.

Examining the impact of fixed and variable costs as well as issues of economy of scale are technically complex. In addition, hospitals are not required to report the details of their administrative costs. We have some information on this topic, however. We have found that administrative per case costs for all hospitals were $166 in 1980, representing 5 percent of total costs. By 1988 administrative costs had increased to $410 representing 5.5 percent of total costs. We are attempting to gather more information on differences in these costs by size and location of hospitals. We don't however, have specific data related to hospital information systems.

I agree with you that this is an important topic. It would be very costly, however, to require hospitals to report on the costs of developing and maintaining their information systems and to allocate administrative costs to specific activities. For example, medical record keeping is important for billing purposes, but its also important for patient care and quality assurance.

### Wage-Index and PPS Inequities

Senator Harkin: We are all aware that hospitals in different geographic areas face different prices for labor, supplies and other services used to provide patient care.

One of the key inputs that the PPS system has attempted to adjust for is the hourly cost of labor for hospitals. As you indicated in your March 1991 report, the accuracy of this wage index has a significant impact on the distribution of PPS payments--every 10% difference in the wage index for a given area results in a 7% difference in payments to hospitals in that area.

Your report also confirms that the area wage index should be adjusted for differences in occupational mix, because high labor costs are often due to the use of more expensive kinds of labor.

What is the most efficient and accurate way to refine our current wage index in order to reflect differences in hospital staffing preferences?

Mr. Berman: We believe our recommendation is the best way to accomplish this. Removing the effects of occupation mix from the wage index will result in a wage index that more accurately measures the price of labor and does not also include staffing patterns related to more complex procedures which should be captured by the higher DRG weights assigned to the more complex procedures.

### Meeting the Needs of the Uninsured

Senator Harkin: I recently introduced a package of seven bills designed to promote preventive health care for Americans of all ages. This legislation highlights a simple philosophy about health and wellness--

that, by stressing prevention today, we will be able to avoid costly treatments tomorrow.

I am very concerned, however, that 37 million uninsured Americans continue to have difficulty obtaining primary care and preventative services. Our current cost containment focus has made it more difficult for hospitals and others to provide this care, and often even acute care, to individuals with a limited ability to pay.

The 1990 Budget Act specified that ProPAC expand its analysis of this problem, specifically regarding the policy for recognizing bad debt and charity care costs.

Please describe your recent efforts to address this issue and any initial recommendations you have formulated.

Mr. Berman: In our March 1991 report to Congress we included the initial findings from analysis. Uncompensated care costs are increasing for all groups of hospitals. Further, the portion of uncompensated care costs that is not offset by government subsidies increased even faster at a rate of 13.5 percent a year from 1980 to 1989. Uncompensated care costs, after offsetting government subsidies, commands the same proportion of hospital resources in rural areas as in urban areas.

Before making specific recommendations, we believe it is important to also examine the impact of medicaid payment level on rural and urban hospitals. We did indicate in our report that Congress should continue to consider methods to reduce the size of the uninsured population.

Hospital Outpayment Payment Reform

Senator Harkin: I was pleased to find that ProPAC has begun to develop alternative outpatient payment systems as requested in the 1990 Omnibus Budget Reconciliation Act.

We have witnessed the increased number of hospitals providing outpatient services over the last decade--now over 67% of hospitals have organized outpatient departments, up from 44% in 1981.

Certainly, smaller hospitals and hospitals in rural areas are depending more on revenue generated from these outpatient services, and I suspect that this revenue is used to "cross-subsidize" smaller hospitals' inpatient services in the event that PPS reimbursements do not cover actual costs.

For this reason, I believe it is critical that any proposed outpatient payment system be constructed to minimize outpatient payment biases against small rural providers.

How do you intend to address this issue in designing this policy?

Mr. Berman: We agree with you that outpatient payment reform should not include any biases against rural, or for that matter any groups of hospitals. In our prior report on payment for ambulatory surgery services, we did not recommend treating rural hospitals differently than urban hospitals.

There is another aspect to outpatient payment policy that is creating financial pressure on rural as well as urban hospitals. In OBRA 1990, Congress reduced cost based reimbursement for hospital outpatient services for all hospitals. Since rural hospitals rely on outpatient revenue to greater extent than urban hospitals, the reduction will have a greater impact on rural hospitals. Any assessment of the impact of outpatient reform must recognize that Congress has enacted several legislative changes to reduce the growth in outpatient spending for all hospitals.

## Paperwork Burden

Senator Harkin: I'd like to focus for a moment on some of the recommendations included in your annual report to Congress that was submitted earlier this month.

One of your recommendations concerns implementing uniform data collection and coding requirements for all providers of outpatient care. We have talked in the past about the "paperwork" burden that is required for Medicare reimbursement and the need to streamline this process.

How would implementation of these uniform requirements impact Medicare Part B providers?

Mr. Berman: The Commission is concerned about the paperwork burden facing providers and considered this impact in developing recommendation. We do not believe that the recommendation will substantially increase the burden after the recommendation is implemented. The major focus of the recommendation is on obtaining consistent information rather than increasing the total amount of data collected. Further, uniform reporting will result in more consistent payment policies which is to the advantage of providers.

## Office of Rural Health Policy

Senator Harkin: Last fall, the Committee included report language directing ProPAC to provide technical assistance to the Federal Office of Rural Health Policy (ORHP). The rationale here was that ProPAC has developed data base systems essential for ORHP's impact analysis of Medicaid and Medicare regulations. Sharing this technical information would alleviate the need for ORHP to create a parallel data base.

What is the status of this collaboration?

Mr. Berman: ProPAC's policy is to share data bases with other Federal agencies, consistent with the legal requirements of the data licensing agreements we sign to obtain the data. In addition, we try to make the findings from our analyses widely available to other agencies as well as the public. We have not previously used our limited resources to develop analysis plans, computer specifications and programming for the mainframe computer for agencies and individuals outside ProPAC. We have, however, collaborated with other agencies on projects of joint interest. To date, the Office of Rural Health Policy has not asked us for data tapes, technical assistance, or specific computer analyses.

# U.S. SOLDIERS' AND AIRMEN'S HOME

## STATEMENT OF MAJ. GEN. DONALD C. HILBERT, U.S. ARMY (RETIRED), GOVERNOR

**ACCOMPANIED BY:**

**COL. JOHN W. GHEEN, U.S. ARMY (RETIRED), DEPUTY GOVERNOR**

**COL. ROBERT J. GRIDER, U.S. ARMY (RETIRED), DIRECTOR, ADMINISTRATION**

**ELIZABETH J. WALKER, BUDGET OFFICER**

### BUDGET REQUEST

Senator HARKIN. The next panel is the U.S. Soldiers' and Airmen's Home.

The home's total fiscal year 1992 request for operations and maintenance is $42.1 million. This is an increase of $1.5 million over last year. There is also a capital outlay request of $4.2 million for construction and renovation of the physical plant.

The home was established in 1851 for the relief and support of retired and disabled soldiers. The 2,200-bed facility is located in Northwest Washington.

It is my pleasure today to welcome Maj. Gen. Donald C. Hilbert before the committee. In June 1990, Major Hilbert was appointed by the President as the 25th Governor of the home. I also want to congratulate you on your recent retirement from the U.S. Army. I understand you completed 35 years of military service this past spring. Congratulations on both, your service to your country and other service to your country as head of the home. Welcome.

Your statement will be made a part of the record in its entirety. Please proceed to summarize your statement for us.

### INTRODUCTION OF ASSOCIATES

General HILBERT. Thank you, Mr. Chairman. I would like to introduce the folks that I have brought with me. On my left is Col. Wes Gheen who took over the job of Deputy Governor in November of 1990. He has been with the home for about 8 years. On my right is our new Director of Administration, Col. Jeff Grider, who retired also from the Army the end of September; and Mrs. Betty Walker, who has been our Budget Officer since February 1988.

On behalf of the distinguished veterans of the U.S. Soldiers' and Airmen's Home, I appreciate the opportunity to meet with you today. This is my first appearance before Congress as the Governor of the home, but I am well aware of your subcommittee's strong support in the past for improving the home's standards of living and care for our membership.

## EVALUATION OF ORGANIZATION AND MANAGEMENT

I have spent the past several months evaluating the organization and management of the home and reviewing the several oversight reports from outside agencies which have been received in the recent past, the latest being the Department of Defense inspector general report and the Department of Defense general audit. All of the recommendations of both reports have been resolved either through agreement with the inspector general, overcome by the new legislation that has been passed, or corrective action has been or is in the process of being taken.

One of the major criticisms in the past and repeated in the audit report was the accounting system at the home. We are in the process of converting to a new accounting system obtained through a reimbursable agreement with the Department of Treasury Financial Management Services. This system will place us in full compliance with GAO standards.

I am also happy to report that in October 1990, the home's Benjamin King Health Center received an additional 3-year accreditation from the Joint Commission on Accreditation of Health Care Organizations. This was in recognition of its long-term care standards.

I have also been involved in evaluating the Armed Forces Retirement Home Act of 1991. As you are aware, the new legislation makes several changes in admission policy, the governing boards, the appointment of officers, and the trust fund of the home.

## CAPITAL OUTLAY PROJECTS

Next I would like to summarize the status of our principal capital outlay projects.

The construction of the intermediate care facility is approximately 50 percent complete, and all work is on or ahead of schedule. The current contract completion date is April 1992. However, the contractor is planning to complete the work 1 or 2 months early.

Our capital outlay request for fiscal year 1992 is $4,220,000. The individual projects are outlined in our budget submission.

There is no request for funds to continue the renovation of dormitories in the fiscal year 1992 budget. As recommended by the Department of Defense Inspector General, prior to major capital outlay projects, we will conduct an economic analysis. Currently we are conducting an economic analysis in conjunction with the Office of Management and Budget to determine the best alternatives to provide housing for our members and the sequence for renovating the remaining dormitories.

## OPERATION AND MAINTENANCE

The home's operation and maintenance budget request for fiscal year 1992 is $42,123,000, which is $1,542,000 greater than the fiscal year 1991 appropriation. A major portion of the increase is to provide pay raises for the personnel employed. This budget will fund an employee level of 970 personnel.

In that context, there have been several studies in the past that have addressed manpower levels for health care. However, since there were differences of opinion as to their validity, I decided to look at not only health care staffing levels, but staffing for the entire home. We are just completing our review of studies by teams from the U.S. Army Force Integration Analysis Agency and the U.S. Air Force Management Engineering Activity. We are currently in the process of obtaining a contract with Circle, Inc. to evaluate the manpower staffing requirements in the professional services division, health care directorate. When these have been completed, we will have a good handle on the staffing requirements needed to operate the home in an efficient manner.

### PREPARED STATEMENT

Evaluation of past operations indicates that there are some areas and programs at the home that need attention. An equipment replacement program needs to be developed. This was pointed out to us by the Department of Defense inspector general. A preventive maintenance program is required. An ongoing maintenance and repair program for ancillary buildings is necessary because of the age of these buildings. And the way we budget for the purchase of pharmaceuticals needs to be reviewed.

Sir, this completes my statement. I'll be very happy to answer any of your questions.

[The statement follows:]

## STATEMENT OF MAJ. GEN. DONALD C. HILBERT

### PURPOSE

The purpose of this statement is to furnish information on the Home which may be of interest during the committee's consideration of the Home's fiscal year 1992 budget request. Included is pertinent information on the Home: its mission, administration, physical plant, financing, and members. The statement also provides a general description of the fiscal year 1992 budget request as compared with the fiscal year 1991. It is also important to note that under the provision of Public Law 101-510, Title XV—Armed Forces Retirement Home, several changes regarding the Home occurred in fiscal year 1991; however, most will occur in fiscal year 1992. The Armed Forces Retirement Home Act of 1991 incorporates the United States Soldiers' and Airmen's Home and the United States Naval Home into an independent establishment in the Executive branch to be known as the Armed Forces Retirement Home. Each facility will be maintained as a separate establishment for administrative purposes.

### MISSION

The Home was established by Congress in 1851 for the relief and support of retired, invalid, or disabled soldiers of the Regular Army. Until fiscal year 1992 membership has been a benefit for former warrant officers and enlisted personnel of the Regular Army and Air Force with the following qualifications: (1) honest and faithful service for twenty years or more as warrant officers or enlisted personnel, or (2) service-connected disabilities rendering them unable to earn a livelihood, or (3) non-service connected disabilities rendering them unable to earn a livelihood, provided they have had service during a war. Under the provisions of Public Law 101-510 effective in fiscal year 1992 membership criteria changes. Membership will be a benefit for persons who served as members of the Armed Forces, as long as at least one-half was not active commissioned service, with the following qualifications: (1) honest and faithful active service for twenty years or more and are age 60 or over, or (2) service-connected disabilities rendering them unable to earn a livelihood, or (3) non-service connected disabilities rendering them unable to earn a livelihood, provided they have had service in a war theater during a time of war declared by Congress or were eligible for hostile fire special pay under section 310 of title 37, United States Code.

## ADMINISTRATION

General supervision of the Home was placed by Congress in a Board of Commissioners now presided over by the Deputy Chief of Staff, Manpower and Personnel, U.S. Air Force, and includes the Principal Deputy Assistant Secretary of the Air Force, Financial Management (Resource Management); The Surgeon General, U.S. Army; Chief of Engineers, U.S. Army; Commander, U.S. Army Community and Family Support Center; The Judge Advocate General, U.S. Air force; the Sergeant Major of the Army; the Chief Master Sergeant of the Air Force; and the Governor of the Home. Subject to approval by the Secretary of the Army and the Secretary of the Air Force, the Board has authority to establish regulations for the internal direction of the Home. The law provides for an annual report of inspection of the Home by The Inspector General of the Army to be submitted to Congress. The Armed Forces Retirement Home Act of 1991 will make changes in the Administration of the Home. The Act establishes the Armed Forces Retirement Home Board which will exercise policy oversight over the Retirement Home and oversee the activities of the local boards of trustees. The Soldiers' and Airmen's Home will have a Board of Trustees which shall exercise operational oversight over it and will provide reports to the Retirement Home Board through the Secretary of the Army and the Secretary of the Air Force. Not later than 90 days after the end of each fiscal year, the Retirement Home Board shall submit to the Secretary of Defense, for transmission to Congress, a report describing the financial and other affairs of the Retirement Home for that fiscal year. The law provides for an inspection of the Retirement Home every three years alternating between the Inspector General of the Department of Defense and the Inspector Generals of the military departments.

## PHYSICAL PLANT

The Home is situated in northwest Washington, D.C. Facilities include four domiciliary and three health care buildings, a service area, a heating plant, a laundry, and some minor structures. The renovation, modernization, and air-conditioning of the central Scott Dormitory has been completed, due in large part to strong Congressional advocacy and support. Additionally, all remaining member-bed areas have been air-conditioned. The request for capital outlay funds to renovate the remaining domiciliary areas is being delayed until the completion of an economic analysis to determine the most cost effective way to provide improved facilities. The current domiciliary capacity of the Home is 1,846 beds. Our hospital has a current capacity of 385 beds. The new 200-bed intermediate care facility is currently under construction with expected occupancy in April 1992. Home lands consist of approximately 302 acres.

## FINANCING

The Act of 1851 provided that the Home be supported from two principal sources: (1) a monthly contribution while on active duty of twenty-five cents from each enlisted member and warrant officer of the Regular Army and later the Air Force, and, (2) fines and forfeitures imposed upon these people by sentence of courtsmartial. Public Law 94-454 increased the monthly withholding to fifty cents. Public law 96-357 amended the Act of 1851 to also include fines and forfeitures imposed upon the aforementioned people under authority of Section 815 of Title 10, United States Code, commonly referred to as non-judicial punishment. The Act of 1883 established a Permanent fund in the U.S. Treasury and provided for the payment of interest of 3 percent per annum on the fund balance. On December 15, 1973, the Act of 1883 was amended so that the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States, would set the interest rate. Under this amendment, the Home is now receiving about 8 percent interest on its fund balance. Public Law 94-454, in addition, authorized the collection of a fee from the members of the Home. The permanent Fund's unappropriated balance on September 30, 1990 was $152 million. The Armed Forces Retirement Home Act of 1991 establishes in the Treasury of the United States a trust fund to be known as the Armed Forces Retirement Home Trust Fund. Currently there exists within this fund separate accounts for the U.S. Soldiers' and Airmen's Home and the Naval Home. Income will continue to consist of fines and forfeitures, monthly deductions from the pay of enlisted members and warrant officers, interest on the fund, and members monthly fees. The new law does change the members monthly fee to include not only a percentage of monthly retired pay, monthly compensation or pension paid by the Secretary of Veterans Affairs, but to also include monthly civil service annuities and Social Security payments.

### MEMBERSHIP

Membership as of 31 December 1990 was 1,912. Our male members range in age from 31 to 97, with an average age of 69.2. Our female members range in age from 44 to 94, with an average age of 74.5. There are 92 female members. The average age of the patients in the health care facility range from 46 years to 96 years with the average age being 75.7 years. Average total membership during the fiscal year 1990 was 1,923.

### THE FISCAL YEAR 1992 BUDGET FOR OPERATION AND MAINTENANCE

The Home's fiscal year 1992 operation and maintenance budget request is $42,123,000, an amount $1,542,000 greater than its fiscal year 1991 budget authority of $40,581,000. A detailed description is included in the Home's justification booklet which has been submitted to the Congress.

### THE FISCAL YEAR 1992 BUDGET FOR CAPITAL OUTLAY

The Home's fiscal year 1992 capital outlay budget request is $4,220,000. Fiscal year 1992 funds are to be used to continue projects included in the Home's Restoration Plan.

### CONCLUSION

The members of the Home appreciate the interest in their welfare that the Congress has taken over the years.

### MEMBERSHIP QUALIFICATIONS

Senator HARKIN. Thank you very much, General.

Tell us about the membership qualifications changing in fiscal year 1992.

General HILBERT. The membership qualifications. Under the old regulations, we at the Soldiers' and Airmen's Home allowed personnel of any age to enter the Home, as long as they had retired after 20 or more years of regular service in the U.S. Army or the U.S. Air Force. Under the new legislation, we will be permitted to admit only those retirees that are over 60 years of age.

There is another change. The word "regular" has been replaced by "active duty" which should not have an effect on our category 1 membership status. It may have an effect on categories which have a service-connected disability and those whose disability is not service connected but prevents them from earning a livelihood. This will, in effect, open up the Home to the veterans from the Second World War, Korea, and Vietnam who were draftees. Also, the legislation will open up qualification for those female members who served in the Women's Auxiliary Army Corps [WAAC], and the Women's Army Corps prior to 1948.

There will now be two boards. There will be a Department of Defense board which will have anywhere from 16 to up to about 22 members, and then there will be a local board. At the present time, we are governed by a board of commissioners of only eight personnel from the Army and the Air Force. These are the major changes in the legislation as we see them.

### PREVENTIVE HEALTH CARE EFFORTS

Senator HARKIN. Let me just ask you about preventive care. I recently introduced a package of bills that deal with prevention, and some of it is geared to older Americans. It would support a range of onsite services like blood pressure testing, smoking cessation classes for senior citizens, a variety of different things to try to check up on elderly people to give them early warning signs.

Do you have any kind of health prevention activities right now at the Soldiers' and Airmen's Home?

Colonel GHEEN. Yes, sir; of the items you just mentioned, we have available instruction on not smoking. As a result of the completion of the renovation of one of our dormitories, we now have no smoking floors within the dormitory, and no smoking areas within common areas. In addition, assistance is available at the health care center for those that request it.

Senator HARKIN. Excuse me, if I could just interrupt you for just a second, Colonel.

I understand that, but do you have some kind of services? A lot of people have been smoking a long time especially in isolation or when they get to that position, they may feel they cannot quit, but doctors would advise them to quit. Do you have any kind of ongoing support systems and counseling and medical intervention with these people to try to get them off of smoking?

Colonel GHEEN. We do provide the counseling, sir.

Senator HARKIN. You do.

Colonel GHEEN. In addition, we have an arrangement with George Washington Medical where they provide fellowships in geriatric patient care, and through their services, we get additional guidance and assistance on how to work on those kind of problems that you mentioned.

Senator HARKIN. What other kinds? Do you have blood pressure testing there?

Colonel GHEEN. We, by birthday, have a physical evaluation annually of each of the members. In addition, we have an outreach clinic in the major dormitories where members are free to go down and get blood pressure checks at any point in time in addition to assistance on medications to make sure that they are not taking something really not necessary or that, as a result of some further prescription, might be actually adverse to their condition.

Senator HARKIN. Do you have an ongoing exercise program?

Colonel GHEEN. Only voluntary.

Senator HARKIN. Well, yes, I understand that. You can't force them, of course. [Laughter.]

Colonel GHEEN. But we make the facilities available and at whatever hours would be needed. Many of them like to exercise, for example, before 5 a.m., where there's not a lot of people to watch them. And we have a sports director to suggest appropriate exercise programs.

Senator HARKIN. That's good. I have seen situations where they would have screening programs and they find out what their health is like. Then they put them on certain exercise programs, and they try to encourage them and give them incentives that if they were to lose some weight, for example, or if they're on one of these stationary bicycles that sort of lays down—that's what I remember seeing. I don't know what you call them, but they sit back so they will not fall off of it. And they ride them. And if they get to certain plateaus, they get incentives, that type of thing. And I just wondering if you have that kind of built-in program there.

Colonel **GHEEN**. The weight program—we do have a very specific—to encourage individuals to get in, get their regular counseling, get their weigh-ins. We also have diet control programs, both within the general mess which supports the dormitories and the health care mess which supports the health care itself, both on a followup after medical treatment and then those that just have a weight problem.

Senator **HARKIN**. I see.

This is my third year chairing this committee, and I am obviously going to be here for at least another 6 years. I would like to take a look at your place. I have never been there, and I would like to go up and take a look at it.

General **HILBERT**. Sir, we would be more than happy to have you.

Senator **HARKIN**. It is not your fault. It has been mine. I haven't. And I just said to my staff I would like to get up there maybe sometime this spring or summer.

General **HILBERT**. That would be wonderful.

Senator **HARKIN**. We'll work it out sometime when I can get up there. I would like to just get a firsthand look at it.

General **HILBERT**. We very, very much would like you to.

Senator **HARKIN**. General, thank you very much. Colonels, Ms. Walker, thank you very much for being here and I look forward to working with you. We will do our darnedest to meet your requests.

General **HILBERT**. Thank you.

### QUESTIONS SUBMITTED BY THE SUBCOMMITTEE

Senator **HARKIN**. Thank you very much.

There will be some additional questions which will be submitted for your response in the record.

[The following questions were not asked at the hearing, but were submitted to the Home for response subsequent to the hearing:]

# QUESTIONS SUBMITTED BY THE SUBCOMMITTEE

## HEALTH CARE FACILITY

Senator Harkin: I understand that the Home's new 200-bed intermediate health care facility, mandated by Congress several years ago, is slated for completion in 1992. Last year, Lt. General McKee testified that funds were insufficient to construct both the chapel and parking lot.

General Hilbert: When the former Governor testified last spring, it was estimated that an additional $1,245,000 was needed to construct the chapel and parking lot. The latest estimate is $1,875,000. In FY 91, the Congress appropriated $1,473,000 more in Capital Outlay funds than requested in the Administration's budget. This additional $1,473,000 has tentatively been set aside for the construction of the chapel and parking lot. However, since this is short of the now estimated cost, the Home has requested approval of OMB to reprogram funds originally requested for paved surfaces so that this portion of the health care facility can be constructed. As of this date, we are continuing to work this issue with OMB.

Senator Harkin: What portion of the project remains under construction?

General Hilbert: The health care facility, less the chapel and parking lot, is currently under construction with completion scheduled for April 1992.

## LEWIN ICF STUDY

Senator Harkin: Last year, the Subcommittee reviewed the Home's most recent health care assessment report completed by the consulting firm Lewin/ICF. The Lewin/ICF report indicated that more should be done to maximize residents' ability to remain in independent and assisted living situations as long as possible. In addition, the report concluded that more social activities should be created to reduce the social isolation of the Home's members.

What specific programs has the Home instituted to further these goals of greater member independence and social interaction?

General Hilbert: During this past year (1990), the USSAH has increased existing programs designed to encourage and accommodate members with various disabilities to live in a dormitory setting as long as possible rather than live in a health care setting. Additionally, we are in the process of implementing a formalized assisted living in the dormitory designed specifically for Home members who might otherwise have to be assigned to our King Health Center on a long-term basis.

a. Selected dormitory floors on lower levels are reserved for members with chronically limiting health problems. These selected dormitory members receive assistance with daily living tasks and are encouraged to participate in community activities within their capabilities. Suitable members currently in health care status are being transferred to this dorm setting, and with some assistance, are able to remain in the dormitory for extended periods of time. This group includes members in wheelchairs, motorized carts, others recovering from strokes, fractures, amputations and some form of mental aberration.

b. Starting in May 1991, expanded assisted living services will be provided in another of the central dormitories and will include specially trained staff personnel in the fields of nursing, recreation, psychology and geriatrics to insure that residents with health support needs become more active within the community.

c. Handicapped dining room service, daily community health evaluations, structured exercise and other indoor activities, coupled with recreation bus trips and other special individual and group endeavors provides the framework for an on-going, ever expanding array of resident community involvement. The end results of these staff programming efforts will enhance the longevity and quality of life of marginally able members within the dormitories.

## SUBCOMMITTEE RECESS

Senator HARKIN. Thank you. The subcommittee will stand in recess until 9:30 a.m., Tuesday, April 6, when we will meet in SD-192 to begin our public witness hearings on the budget request.

[Whereupon, at 5:25 p.m., Thursday, March 21, the subcommittee was recessed, to reconvene at 9:30 a.m., Tuesday, April 16.]

# DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES APPROPRIATIONS FOR FISCAL YEAR 1992

THURSDAY, APRIL 25, 1991

U.S. Senate,
Subcommittee of the Committee on Appropriations,
*Washington, DC.*

The subcommittee met at 2:28 p.m., in room SD-192, Dirksen Senate Office Building, Hon. Tom Harkin (chairman) presiding.

Present: Senators Harkin, Bumpers, Specter, Hatfield, Cochran, and Gorton.

## DEPARTMENT OF EDUCATION

### Secretary of Education

**STATEMENT OF LAMAR ALEXANDER, SECRETARY**

**ACCOMPANIED BY:**

- **TED SANDERS, DEPUTY SECRETARY**
- **SALLY H. CHRISTENSEN, ACTING DEPUTY UNDER SECRETARY FOR PLANNING, BUDGET AND EVALUATION**

### OPENING REMARKS OF SENATOR HARKIN

Senator Harkin. Good afternoon. The Subcommittee on Labor, Health and Human Services, Education, and Related Agencies will come to order.

It is a real pleasure to welcome Lamar Alexander, our new Secretary of Education, to the committee today. Secretary Alexander brings to the job a long background of strong support for education and a track record of genuine leadership.

Secretary Alexander has already demonstrated a great amount of leadership in his first 4 weeks on the job by developing and promoting a consensus for the White House announced America 2000 education initiative. Secretary Alexander has also moved quickly to bring a new leadership team to the Department, and has put into place a reorganization of student financial assistance programs. Mr. Secretary, you are off to a very fast and strong start.

I think all the members of the subcommittee will join me in expressing to you our interest in working with you to develop the fiscal year 1992 budget for the Department of Education. While we will no doubt have some differences over some of the details and directions, we do all share the same goal of improving and strengthening education in America.

### FISCAL YEAR 1992 EDUCATION BUDGET REQUEST

This year the administration has requested $29.6 billion for the Department of Education, which is $2.5 billion or 9.3 percent over the fiscal year 1991 level. Well now, that sounds good. Unfortunately $1.7 billion of this increase is simply for a bookkeeping change required by the credit reform legislation enacted by the Congress last year. So the discretionary increases for the Department of Education total only $768 million, or only 3.7 percent more than last year. When we consider the effects of inflation, discretionary programs in the Department are actually being cut.

### AMERICA 2000: AN EDUCATION STRATEGY

An amount of $690 million of this discretionary increase is associated with the President's new education initiative, America 2000. Until we see the details it is difficult to evaluate, but it should make an important contribution to our continuing discussions as to how to improve education in America.

I do have, Mr. Secretary, a number of concerns. One of my concerns is that the package does not adequately address meeting the first goal, that of ensuring that all children start school ready to learn by the year 2000. I know you have heard me talk about this, and I am going to start sounding like a broken record, but I am just going to keep saying it, because I feel that strongly about it. None of the important Federal programs, such as Head Start, maternal and child health, childhood immunizations, WIC Program, which help ensure that children are well nourished, healthy, and ready to learn, are addressed by America 2000.

### COMMITTEE FOR ECONOMIC DEVELOPMENT REPORT

I might just point out the Committee for Economic Development issued a report on February 28. This is a committee of some of the leading CEO's in America, headed by the CEO of Honeywell in Minneapolis, Mr. Renier, James Renier. And let me just quote to you the third paragraph on the first page. The new innovation for child development and education calls for a systematic reappraisal of the way children are prepared for school, and urges:

> A comprehensive and coordinated strategy for human investment that redefines education as a process that begins at birth and recognizes that preparation for learning begins even before birth.

### PELL GRANTS

Also the plan makes no new Federal, new investment in core Federal education programs such as chapter 1, special education, Pell grants, and other student aid. These programs have been working. We have a long way to go to fully fund them. For example, over 4 million eligible children are currently not provided with chapter 1 reading and math. Funding for the 4.4 million children with disabilities meets only 25 percent of the standard set by law for our disabled children. Pell grants now meet only 20 percent of the average tuition cost for students that qualify.

### CHOICE PROGRAM

One of the America 2000 proposals will clearly be controversial, and that is a $200 million proposal for a new choice program that would include private schools. Similar proposals have been rejected by the Congress in the past. Of course this is going to be an area for the authorizing committee, not for this subcommittee.

### NEW AUTHORIZING LEGISLATION REQUIRED

Virtually all the America 2000 initiatives will require the enactment of new authorizing legislation, and again that is important to this subcommittee. Many of the core programs, such as special education, rehabilitation services, all the higher education programs, need to be reauthorized for fiscal year 1992. Of the President's request for 1992, a full $17.1 billion, or 58 percent of the Department's request, requires new authorizing legislation for 1992. My point in bringing this out is that it is highly unlikely that this authorizing legislation will be enacted in time for our markup, since we are going to be starting our markup in just a few weeks.

And, therefore, Mr. Secretary, we will need your advice on developing a budget that is based on current law that would get us on the path of meeting the America 2000 goals. And so we welcome and invite your advice in this regard.

Secretary **Alexander**. Thank you.

Senator **Harkin**. Mr. Secretary, I want to say again that I look forward to continuing the good relationship that this subcommittee has enjoyed with the Department. I commend you on getting off to a very fast and good start. And I know I look forward to working with you on the many matters that will come before us in funding these programs.

Now I yield to the distinguished Senator from Pennsylvania, the ranking member of this subcommittee, Senator Specter, for any opening statement that he may wish to make.

### STATEMENT OF SENATOR ARLEN SPECTER

Senator **Specter**. Thank you very much, Mr. Chairman. Mr. Secretary, I join my colleague, Chairman Harkin, in welcoming you to this subcommittee. We are charged with an extremely important objective in providing appropriations for Federal educational programs, and we have a difficult subcommittee because we have labor, health and human services, as well as education. But there is a commitment on the part of every member of this subcommittee to do our utmost to find every last available dollar to help on education.

I join Chairman Harkin in complimenting you on your fast start. But then you had a head start in your background. You have had a very distinguished career as Governor of Tennessee and president of the University of Tennessee.

I had the opportunity to be present when President Bush outlined his program for education last week in the White House, and it is a very solid program. The President, I know, wants to do everything within his power to fulfill his stated goal of being the education president. And it is a very, very big job which remains to be done.

But education is really a capital investment. I might say just on a momentary personal note that I had a very heavy emphasis in my household from the start on education because my parents had so little of it. My father and mother came from foreign shores. My father had no formal education and my mother had an eighth grade education. In the Specter household the word education was the most important word around, and it was a word which my brother, two sisters, and I took very seriously. So then, I know what an education can do for opportunity in this great country, and I think we all have an obligation to do our utmost to pass it on to this American generation and future generations.

Thank you very much, Mr. Chairman.

Senator HARKIN. Thank you, Senator Specter.

### STATEMENT OF SENATOR THAD COCHRAN

Senator Cochran.

Senator COCHRAN. Mr. Chairman, may I just say a word to compliment the Secretary of Education and this administration on the leadership we are seeing for education reform. I hope the Congress and this committee will support and assist in developing a workable bipartisan strategy to realize the goal of better schools and education programs in this country.

### STAR SCHOOLS PROGRAM

I would like to mention some highlights of this year's education budget request which impressed me. For the first time there is a request for the Star Schools Program. Technology is playing an increasingly important role in providing educational opportunities to many students, particularly in small towns and rural communities who might otherwise not have the benefit of instruction that is available in other areas.

### PROGRAMS SERVING THE DISADVANTAGED

There is a substantial increase requested for higher education and other programs which provide access and extra help for those who are seriously disadvantaged. This includes the Even Start Program, adult education grants, and the chapter 1 program, particularly the concentration grant program of chapter 1.

I hope we will carefully review the President's budget submission, Mr. Chairman, and take seriously the effort that is being made to make meaningful reforms in many of these programs.

Senator HARKIN. Thank you, Senator Cochran. Senator Bumpers.

Senator BUMPERS. I do not have an opening statement, Mr. Chairman.

Senator HARKIN. Thank you very much, Senator Bumpers. Mr. Secretary, welcome to the subcommittee. Your statement will be made a part of the record in its entirety. Please proceed as you so desire.

### INTRODUCTION OF ASSOCIATES

Secretary **Alexander**. Thanks, Mr. Chairman, and Senator Specter, Senator Bumpers, Senator Cochran. I look forward to working with you, and I thank you for inviting me here. I have only been here 1 month, and the budget arrived before I did, so I may need a little assistance as we get into detailed questions. And for that reason Ted Sanders, the Deputy Secretary, is here, whom all of you know, I think, and Sally Christensen, a very able Department employee who is the Acting Assistant Secretary now, is also here.

### STATEMENT OF SECRETARY LAMAR ALEXANDER

I think most people would like for us to work together to see if we can contribute to the Nation's effort to move toward the national education goals. For several years now we have all been talking about education, trying to do things about it. Some things have worked, many things have not. We are a little bit frustrated as a country by it. We do not like being anything but first in the world, and we know we are not in some areas here. And it is a matter of reaching our potential.

### AMERICA 2000: AN EDUCATION STRATEGY

And the reaction to the President's comments on Thursday suggest to me that he struck a chord, not so much because he came up with ideas that only he had, secrets that he had in the closet or some silver bullet that might produce a big result in a week or two, but that what he tried to do was suggest a strategy that incorporated the best ideas of people from all over the country, and many ideas that had already been a part of this U.S. Congress, some of which are already at work, some of which could have just been proposed.

So what I would like to do very briefly in preliminary remarks is summarize briefly the budget implications of America 2000, of the Higher Education Authorization Act, and of the 1992 budget generally. I will not do it in great detail. I will assume that you will get into questions of detailed areas. I will submit to the record the statement that you already have.

### BUDGET PROPOSALS IN SUPPORT OF AMERICA 2000

I would like also to submit for the record the letter that I have provided to each member of this committee a little earlier this week which outlines in detail the items from the America 2000 appropriation that will be coming up a little later. And if any of the Senators do not have that, we will provide you with an extra copy, because I will be referring to it.

[The information follows:]

## LETTER FROM LEMAR ALEXANDER

APR 23 1991

Honorable Tom Harkin
Chairman, Subcommittee on Labor, Health and
and Human Services, and Education
Committee on Appropriations
United State Senate
Washington, D.C. 20510

Dear Senator Harkin:

I am today transmitting to you a revision to the President's 1992 budget request for the Department of Education to implement the AMERICA 2000 Education Strategy. This revision neither increases nor reduces the total request, but rather proposes a redistribution within and across certain accounts.

The President's budget for education, which was developed before I became Secretary, included $690 million for a collection of educational excellence initiatives. The budget described those initiatives in general terms, and the President afforded me the opportunity, once confirmed, to determine how best to allocate the reserved funds among activities I believed could stimulate improvement and reform in elementary and secondary education.

The President has now unveiled his AMERICA 2000 strategy to help move America toward the six national education goals he and the Governors set for the country a year ago.

The revised 1992 budget request that I am submitting to you today contains estimates of the initial cost to the Federal Government for its role in AMERICA 2000. There will be additional Federal costs in subsequent years, all of which will be included within future President's budgets that conform to the Budget Enforcement Act controls on spending. We will also ask States, localities, and the private sector to contribute their share. But the major cost for AMERICA 2000 will be measured more in terms of effort, commitment, and creativity than in dollars. Real education reform happens community by community, school by school, and it happens only when we understand what we must do for ourselves and our children and then set about to do it.

The attachments to this letter explain in detail the redistribution of funds that I am proposing and the specific programs for which these funds are requested, including those that will require new authorizing legislation. However, very briefly, I would like to place these activities in context.

AMERICA 2000 requires simultaneous action on four fronts:

- o **First, For Today's Students, Better and More Accountable Schools.**

  AMERICA 2000 will spur development of World Class Standards and American Achievement Tests to measure progress toward those standards. School, district, State, and national results will be made available through regular Report Cards. Colleges and businesses will be encouraged to consider the test results when making admissions and hiring decisions.

  AMERICA 2000 will provide incentives for students, teachers, and school leaders to reach World Class Standards. The Merit Schools program will provide financial rewards for schools that have achieved demonstrated progress toward the national goals. Presidential Citations will reward high school seniors who excel academically. Incentive grants will be awarded to States and localities for comprehensive choice policies, and Chapter 1 of the Elementary and Secondary Education Act will be revised to remove impediments to participation of disadvantaged children in local choice programs.

AMERICA 2000 will help strengthen teaching and school leadership. Federal seed money will help States establish Governors' Academies for School Leaders and Governors' Academies for Teachers in core subject areas.

o Second, For Tomorrow's Students: A New Generation of American Schools.

AMERICA 2000 will establish Research and Development Teams, through a new, non-profit corporation supported by private sector funding, to help communities across the country create New American Schools.

AMERICA 2000 Communities, designated by Governors, will design schools that will break the mold and help all students meet World Class Standards. These communities will be eligible to receive grants to help cover start-up costs for the first New American Schools, with at least one in every congressional district. At least 535 New American Schools will open by 1996.

AMERICA 2000 will support planning for America On-Line -- one or more electronic networks designed to provide New American Schools with immediate access to the best information, research, instructional materials, and educational expertise.

o Third, A Nation of Students.

Eighty-five percent of America's work force for the year 2000 is already in the work force today, so improving today's schools and inventing tomorrow's schools not enough to ensure a competitive America in 2000. America's adults must demonstrate that learning is lifelong.

AMERICA 2000 will spark a private-sector effort to create job-related skill standards and skill certificates, and will encourage communities and companies to create Skill Clinics where adults can learn what skills they need for the jobs they want and where to acquire those skills. The Federal Government will lead the way with its own Government-wide program of skill-upgrading.

AMERICA 2000 will stimulate stronger literacy efforts through community-based programs, assessment of national literacy levels, and other Federal efforts, including a National Conference on Education for Adult Americans.

o Fourth, Communities Where Learning Can Happen.

AMERICA 2000 recognizes that 91 percent of a child's life is spent outside school, so parents, families, neighbors, and other adults must build relationships that nurture children.

The President is challenging every city, town, or neighborhood in the Nation to become an AMERICA 2000 Community. To accept this challenge, communities must adopt the national education goals, devise a plan for reaching them, create a report card for monitoring their progress, and demonstrate a commitment to create and support a New American School. Governors will designate AMERICA 2000 Communities.

> AMERICA 2000 also recognizes that the Federal Government must adopt its own sense of community. In support of comprehensive local community efforts, and working through its Economic Empowerment Task Force and with the Governors, the Administration will undertake better coordination of existing Federal programs with corresponding State and local activities.

AMERICA 2000 is a bold, comprehensive, and long-term strategy. It is a national strategy, not a Federal program. It honors and encourages local initiative and reaffirms the role of States and localities as the major partners in education, with the Federal Government and the private sector playing vital and supporting roles.

I am very pleased that the President has given me the opportunity to reshape this portion of the 1992 budget request, so that we may get started as soon as possible on elements of the AMERICA 2000 strategy. I also greatly appreciate the willingness of the Congress to consider these proposals at this somewhat late time in the fiscal year. The Department is working now to develop the necessary legislative proposals for programs that will require authorizing legislation. I will submit that legislative package to the Congress by the middle of May.

Enclosed are a table showing the revised distribution of our $690 million request and a narrative explanation for individual activities. I urge your prompt consideration of our request, and I look forward to working with you over the coming months to help make AMERICA 2000 a reality.

This revision has been approved by the Office of Management and Budget for transmittal to the Congress for consideration as an amendment to the pending FY 1992 Budget of the President.

Sincerely,

Lamar Alexander

Lamar Alexander

## AMERICA 2000: An Education Strategy

### Revised Distribution of FY 1992 President's Budget
(in thousands of dollars)

| Account/Program | 1992 Redistribution |
|---|---|
| **I. Authorizing Legislation Required** | |
| AMERICA 2000 Excellence in Education | |
| New generation of American schools | $180,000 |
| Merit schools | 100,000 |
| Governors' academies for teachers | 40,000 |
| Governors' academies for school leaders | 12,500 |
| Education certificate program support fund | 200,000 |
| Choice demonstrations of national significance | 30,000 |
| Alternative teacher and principal certification | 25,000 |
| Mathematics and science initiative | 40,000 |
| Commission on time, study, learning, and teaching | 1,000 |
| Vocational and Adult Education | |
| Adult education literacy initiative | 10,000 |
| Higher Education | |
| Endowment grants for HBCUs | 10,000 |
| **II. No New Authorizing Legislation Required** [1/] | |
| Assessment, Statistics, Research, and Improvement | |
| Research: | |
| World class standards/American achievement tests | 12,400 |
| Goals panel: National report card | 2,000 |
| America on line | 5,000 |
| Assessing workplace literacy skills | 2,000 |
| Statistics: | |
| Expansion of the adult literacy survey | 1,100 |
| Assessment: | |
| Preparing interim tests | 5,000 |
| Fund for the Improvement and Reform of Schools and Teaching | 10,700 |
| Program Administration | 3,300 |
| Total funding for strategy | 690,000 |

---

[1/] Amounts are additional to the funds in the 1992 President's budget for each activity.

NOTE: No additional amounts are added to the total Department of Education budget to fund AMERICA 2000.

## AMERICA 2000 EXCELLENCE IN EDUCATION
### Explanation of 1992 Budget Revisions

Account: AMERICA 2000 EXCELLENCE IN EDUCATION

The Department requests $628.5 million under this new account for:

- New Generation of American Schools ($180 million)

  Legislation will be proposed to authorize grants of up to $1 million each to AMERICA 2000 Communities, to enable them to design and launch schools that reflect the best thinking about teaching and learning and employ the highest-quality instructional materials and technologies. The Secretary and the Governors will lay the foundation for these schools through two efforts that will get underway immediately at no cost to the Federal government.

  First, the Governors will determine which of their communities have accepted the President's challenge to become the first AMERICA 2000 Communities. To accept the challenge, a community must adopt the national education goals, devise a plan for reaching them, create a report card for monitoring its progress, and demonstrate a commitment to create and support a New American School.

  Second, America's business leaders will establish -- and muster the private resources for -- the New American Schools Development Corporation, a new nonprofit organization that will award contracts to several Research and Development Teams. These R & D Teams will help the AMERICA 2000 Communities create schools in which students will meet the New World Standards in all five core subjects as monitored by the American Achievement Tests and similar measures.

  In developing its plan, each AMERICA 2000 Community will be expected to suggest its own answer to the question: What would it take to develop the best school in the world in this community, a school that serves the children of this community, while also meeting the national education goals?

  Governors, in conjunction with the Secretary of Education, will review these community-developed plans with the assistance of a distinguished national advisory panel, and will determine which AMERICA 2000 Communities in each State will receive Federal assistance. At least one New American School will be created in each U.S. congressional district by 1996. This distribution ensures that every type of community in every part of the country will have the chance to create and establish one of the first 535+ New American Schools. The Governors and the Secretary will take added care to make sure that many of these schools serve communities with high concentrations of "at-risk" children.

- Merit Schools ($100 million)

  Schools that have already taken up the challenge, are making progress toward the national education goals, and appear to be precursors of a New Generation of American Schools would receive rewards for their progress according to selection and award procedures set by each State and subject to review by the Secretary.

- Governors' Academies for Teachers ($40 million)

  Funds would be provided to the States by formula. State and local educational agencies, institutions of higher education, and other public and private agencies and organizations would be eligible to compete for grants from Governors to establish academies that teachers may attend to obtain advanced instruction focusing on the five core academic disciplines -- English, mathematics, science, history, and geography. The

Federal funds would be used as seed money, so that teachers of the core subjects in every State will be ready to help their students attain the World Class Standards and pass the American Achievement Tests. Operational funding will be provided primarily through the States.

- Governors' Academies for School Leaders ($12.5 million)

  Funds would be provided to the States by formula. State and local educational agencies, institutions of higher education, and other public and private agencies and organizations would be eligible to compete for grants from Governors to establish academies (one per State) to provide intensive training, including internships, for prospective school principals and other school leaders. Training would focus on instructional leadership, school-based management, effective school reform strategies, and implementation of school-level accountability mechanisms. Operational funding will be provided primarily through the States.

NOTE: Under current authorities, the Secretary will be providing advice and limited assistance to the Governors so that they can begin the establishment of both types of Academies.

- Education Certificate Program Support Fund ($200 million)

  Legislation will be proposed to authorize grants to provide incentives to school districts to operate qualified certificate programs that provide for parental choice. The grants would not be used for direct support of the choice programs, but rather as incentives to encourage more States and school districts to put such plans into operation. School districts would have broad latitude in spending the funds, subject to their use for educational services. Funds would be allocated on the basis of Chapter 1 grant shares, except that no State or district could receive more than the State's average per pupil expenditure for education, times the number of children taking part in a certificate program. This proposal was contained in the 1992 budget request submitted to the Congress in January.

- Choice Demonstrations of National Significance ($30 million)

  Legislation will be proposed to authorize competitive grants for carefully structured demonstration programs to help States and school districts determine how best to implement choice programs. Each demonstration would include a comprehensive evaluation, so that the results can help other States and districts determine what kind of choice program best meets their needs.

- Alternative Teacher and Principal Certification ($25 million)

  New college graduates and others seeking a career change into teaching or school leadership are often frustrated by certification requirements unrelated to subject area knowledge or leadership ability. This initiative will help States and districts to develop means by which individuals with an interest in teaching and school leadership can overcome these barriers. Under this proposed new program, awards would be made on a one-time basis to States to develop systems for alternative routes to teacher and principal certification.

- Mathematics and Science Initiative ($40 million)

  Legislation will be proposed to authorize a program to encourage increased student achievement in mathematics and science as an aid to school districts in meeting national education goal #4, making American students first in the world in mathematics and science.

- Commission on Time, Study, Learning, and Teaching ($1 million)

  Legislation is currently pending in Congress to create a National Commission on a Longer School Year. The Administration will work with Congress to bring out a broadened version of this legislation. The proposal will be for a commission whose mandate will examine, in addition to the length of the school day and year, such issues as the extent and role of homework, how time is currently used for academic subjects, year-round professional opportunities for teachers, and the use of school facilities for extended learning programs -- all in the context of appraising the quality and adequacy of American students' study and learning time in an era when World Class Standards of achievement need to be met.

**Account**: VOCATIONAL AND ADULT EDUCATION

**Activity**: Adult Education

- **Adult Education Literacy Initiative** ($10 million)

  The Department requests an additional $10 million for adult education to support adult literacy activities called for in the AMERICA 2000 plan, including a National Conference on Education for Adult Learners.

**Account**: HIGHER EDUCATION

**Activity**: Aid for Institutional Development ($10 million)

- **Endowment Grants for HBCUs**

  The Department requests an additional $10 million for grants to increase the endowments of Historically Black Colleges and Universities. Legislative language to authorize this program will be included in the Department's Higher Education Act reauthorization bill.

**Account**: ASSESSMENT, STATISTICS, RESEARCH, AND IMPROVEMENT

**Activity**: Research ($21.4 million)

The Department requests an additional $21.4 million under this activity for the following research and development activities:

- **World Class Standards and American Achievement Tests** ($12.4 million)

  Work on standards and tests is beginning under current authority and funding. Standards will be developed in conjunction with the National Education Goals Panel and leading experts from around the country. These World Class Standards for each of the five core subjects will represent what young Americans need to know and be able to do if they are to live and work successfully in today's world. The standards will incorporate both knowledge and skills, to ensure that, when they leave school, young Americans are prepared for further study and the work force.

  In conjunction with the National Education Goals Panel, a voluntary nationwide examination system will be developed, based on the five core subjects and tied to the World Class Standards. The American Achievement Tests will be designed to foster good teaching and learning as well as to monitor student progress. The first tests, for 4th graders, should be available in 1993, and tests for 8th and 12th graders should be available by 1994, at least in reading, writing, and mathematics.

- **Goals Panel: National Report Card** ($2 million)

  Additional funds are requested for activities to assist the National Education Goals Panel prepare and disseminate a "National Report Card" that will describe what progress the country is making toward the national goals. This amount is in addition to costs for additional Goals Panel staff requested below under Salaries and Expenses, and to amounts already included in the 1992 budget for research and statistics activities to assist the Panel.

- America On Line ($5 million)

  Funding in 1992 would be used for planning purposes. The Department of Education, in consultation with the President's Science Advisor and the Director of the National Science Foundation, will convene a group of experts to help determine how one or more electronic networks might be designed to provide the New American Schools with easy access to the best information, research, instructional materials, and educational expertise. The New American School R & D Teams will be asked for their recommendations. These networks could eventually serve all American schools, as well as homes, libraries, colleges, and other sites where learning occurs.

- Assessing Workplace Literacy Skills ($2 million)

  Funding would be used to develop state-of-the-art techniques required for operational testing of workplace literacy skills. The effort, conducted in cooperation with the Department of Labor, will build on the existing work of the research centers on testing and adult literacy. The project would produce an instrument for trial that would include performance assessments, portfolios analysis, and behavioral observations.

Activity: Statistics

- Expansion of the National Adult Literacy Survey ($1.1 million)

  The Department would support a broad-based consensus process to turn the skill areas identified in the report of the Secretary of Labor's Commission on Achieving Necessary Skills (SCANS) into test objectives and test specifications. Then, following the development of the assessment methodologies described above, the Department's National Adult Literacy Survey contractor would field test the new instrument by administering it to a supplementary sample of 1,000 adults.

Activity: Assessment

- Preparing Interim Tests ($5 million)

  The Department requests an additional $5 million for a new assessment activity to be carried out through competitive grants or contracts. Because the new American Achievement Tests cannot be perfected quickly, an individual version of tests used by the existing National Assessment of Educational Progress would be prepared for States and localities that wish to use them. Work on these tests will begin under current authority and current funds.

Activity: Fund for the Improvement and Reform of Schools and Teaching ($10.7 million)

The Department requests an additional $10.7 million, for a total of $13.5 million, for this activity. The original 1992 budget proposed to phase this program out. This revised budget reverses that proposal and requests an increase of approximately 50 percent over the 1991 level for additional awards in 1992. The Fund can assist in implementing the AMERICA 2000 strategy because it is a source of support for a number of activities that AMERICA 2000 seeks to foster: helping students meet higher educational standards; providing incentives for schools, teachers, and students to make measurable progress toward specific goals of improved educational performance; strengthening school leadership and teaching; and promoting closer ties among schools, families, and the local community.

**Account:** PROGRAM ADMINISTRATION ($3.3 million)

The Department requests an additional $3.3 million in salaries and expenses funds for:

- Additional administrative support for the National Goals Panel to prepare and disseminate the National Report Card and other activities.
- Department support activities for Presidential Citations for Educational Excellence -- logistical support, information activities, and coordination.
- Other administrative expenses, including arranging conferences, staffing commissions, and distributing information about New American Schools, AMERICA 2000 Communities, or other aspects of the strategy.
- Establishing a Skills Clinic to help Department of Education employees learn new skills.

## AN APPROACH TO EDUCATION REFORM

Secretary ALEXANDER. The most important thing to say about the America 2000 budget items appropriations requests, if I may dwell on those for just a minute, is that they are part of a strategy rather than a program. I ran into yesterday a man named Ken Hoffman, who is an MIT professor who has worked for 5 years to help the country set new math standards. The math teachers were all in town yesterday. They have done a wonderful job with that. He said he appreciated what the President was doing because he said that there is a place in his strategy for everyone who is trying to do something important in the education reform movement. And we appreciate that.

I think it is also the same kind of thinking that George Reedy was talking about in his book "Twilight of the Presidency," which came out some years ago. He said Presidential leadership boils down to three things. One is the President needs to see a few of the most urgent needs, two, to develop a strategy to deal with it, and three, to persuade at least one-half of the people he is right. I think President Bush did that last Thursday, and there will come plenty of times in these hearings and in other legislative submissions to fill in the details.

## FOUR TRACKS TO AMERICA 2000 STRATEGY

As an example of that, to go the point that the chairman made earlier about school readiness, the President has four tracks in his strategy. One has to do with better and more accountable schools, and under that came a whole range of things from the national standards, for example, in math, in the American achievement tests, broader choice of schools for families, summer institutes for teachers, and the core curriculum. All those things were under that track.

Then track two has to do with innovation, a brand new generation of American schools. Track three that he wants the country to focus on is one that the Congress has been very active in. It has to do with grownups going back to work, recognizing that if the world has changed, imposing higher standards on our children, it imposes them on us too, most of us in the middle of our careers. If we work for the phone company we have to go back to learn about computers to keep our job.

And then the fourth track, Mr. Chairman, has to do with all those things that happen outside the school. The President pointed out, he called it the 91-percent factor, that if you add up all the time a child spends between age zero and age 18, 91 percent of it is outside the classroom. And whether the child shows up never having seen a book, never having been taken to the zoo, whether the child after he or she is in school goes home to an empty house, all of those things make a difference in learning.

## SCHOOL READINESS GOAL

The President and the Governors, when they worked on the goals, put the school readiness goal as No. 1. Much of that has to do with values, families, acceptance of personal responsibility. A lot of it has to do with community attitudes.

## THE CHALLENGE TO BECOME AN AMERICA 2000 COMMUNITY

The President has challenged every community to become an America 2000 community. That is to say if they are in Helena, AR, he would like to know whether they are willing to do four things. One is to adopt the goals. Second is to adopt their own strategy to meet the goals. The third would be to develop their own report card to see how they are doing. And the fourth would be to create a break-the-mold school themselves, try to create one of the best schools in the country for 400 children there and see what they learn from that. Maybe others will want to create schools the same way.

## GOVERNMENT ROLE IN SCHOOL READINESS

But in that process it becomes obvious that the Government itself has some responsibility. Now, in the last couple of years this Congress and the President have recognized that. And this new budget tries to recognize it, too, in a tight year with some priority items. For example, the Even Start Program. There is a 21-percent increase proposed for that program in the President's budget, which involves children and adults learning together. Some of the Department research in that area is very active.

There are a number of childhood programs that have to do with the readiness goal that are not in our Department's budget, but are an important part of what the President is interested in. For example, Head Start would be up more than 5 percent under the President's budget. It was up 35 percent in the last 2 years. The WIC Program for women, infants, and children is up 9.5 percent in this year's budget, not in our Department, but it has been up in the last 2 years. Grants to States for child care are in this year's budget.

And over the last couple of years some of the items in our budget have been up a good amount. Chapter 1, for example, has been increased 38 percent in the last 2 years.

### FEDERAL SHARE IN NATIONAL EDUCATION SPENDING

The question of money for schools is sometimes misunderstood, and I think it is always important at an appropriations hearing for our budget to point out that only 6 percent of the funding for elementary and secondary education, and only about 15 percent of the funding for colleges and universities in the country, is paid for by the Federal taxpayer. Overall in the last year education funding went up significantly across America, from $370 billion to $397 billion, a $27 billion increase. Federal contributions to education have gone up since 1980 by a steady amount, but State and local spending for education has gone up dramatically more, so that in the last 10 years spending by this country for education is up 140 percent, 30 or 35 percent after inflation is taken into account.

### FUNDING ALONE WILL NOT SOLVE EDUCATION'S PROBLEMS

Having been a university president, I know that money usually always helps. We can always find a way to spend it, we hope usefully. But having looked at it from the point of view of a Governor and a university president, and now in my present job, I do not think, and I do not think the American people think, that money itself is the problem we have got. The problem we have got has to do with attitudes, understanding that the Nation is at risk, and that means we are not OK. Most people think they are anyway. That a lot of what we have tried before is too timid, not bold enough.

That if what is good for our kids is good for us, if they do not know enough, neither do we. We need to go back to school too. A lot of what we have to do has to do with our own personal responsibility, our values. We cannot just continue to park our children at school and expect them to come out whole and educated. That fundamentally is a summary of where we are with our strategy.

### AMERICA 2000 LEGISLATIVE PROPOSALS

I would like to call attention, if I might, Mr. Chairman, to the fourth page of this letter that I sent, which I hope you all have. I am not sure everybody does, but I hope you do. It is dated April 23, and it goes directly to the point you made about the America 2000 education strategy. It is a one page summary of the authorizing legislation required and of those proposals for which no new authorizing legislation is required.

And while there are 44 points, or action points in the President's strategy announced Thursday, there are only 3, 6, 9, 10, 11, 12 of those that require new authorizing legislation. And as we work through this process I hope the committee will find that in some of these 10 areas that you may want—I think I heard you suggest consider finding ways to help these move on ahead in this budget year. Some of them are ideas that many Democratic as well as Republican members have had before in this body, like the summer institutes for teachers in the core areas.

## AMERICA ON LINE PROPOSAL

One of them might be the America on line idea, through which electronic networks would be designed to provide schools with easy access to the best information, research, instructional materials, and expertise. With this idea we could collect the best visual information that we have, like the National Geographic films, which are a good example, and find ways to make those available to schools all over America. Senator Cochran talked about the star schools. It is along that line that we are thinking. The new generation of American schools, and rewards for schools that are doing a good job of following the goals, the math and science initiatives, all are programs that I believe the authorization committees might look favorably on this year, and I hope you will.

## FULL UTILIZATION OF EDUCATIONAL FACILITIES

We suggest that we do some looking at how time is spent in the schools. I mean, they are closed one-half the year. They are closed in the afternoon, they are closed in the summer. They are the most expensive buildings we have in the country. Why is that? Unless we are overeducated, which we are not, or unless we are so rich we can afford to have all these buildings closed, which we are not. We do not want to impose any rules from here on people about that, but we do think we ought to take a look at that. Senator Pell and Senator Bingaman have been working on that. We would like to jump in that with them and with other members of the committee. We think that is worth paying attention to. So those are some of those items.

## 1992 BUDGET: PERCENTAGE BREAKDOWN BY AREA OF SUPPORT

In general in our $29 billion budget proposal, about 45 percent goes to elementary and secondary education, about the same to postsecondary. To look at it another way, about 85 percent could be categorized as helping disadvantaged Americans use education to move from the back to the front of the line, which is a great American dream. About 15 percent of the money goes for what might be categorized as school reform. When it is all said and done the Federal Government will be contributing about 6 percent of the bill for elementary and secondary education, and about 15 percent for postsecondary education.

## PREPARED STATEMENT

I could go over more highlights, talk about other areas in detail, Mr. Chairman, but I think at this point I would be glad to stop and try to focus my attention on specific areas of concern that you or other members have. Thank you.

[The statement follows:]

## STATEMENT OF LEMAR ALEXANDER

Mr. Chairman and members of the committee, I am pleased to appear before you today, for the first time as Secretary of Education, on behalf of the President's 1992 budget request for the Department of Education.

I could not be assuming the position of Secretary at a more critical time in our Nation's education history. We are facing more challenges than ever before. Too many of our young children start school unready to meet the challenges of learning. Too many of our youth drop out of school, throwing away any opportunity to better their lives or contribute to society. Too many of our students lag far behind academically in international comparisons. And too many of our adult citizens and workers either are functionally illiterate or have outdated skills and knowledge.

We see signs of an education renewal springing up here and there around the country. But education reform generally has been much too slow and much too timid. Too many Americans say education is "not my problem;" or, while agreeing that the Nation's schools need help, are satisfied with their own schools. We must bring a sense of excitement and promise to each individual citizen if we, as a Nation, are to have the true commitment needed to reach our National Education Goals.

I would like to share with you today some of our plans for meeting these challenges—our just-announced Education Strategy, our proposed Higher Education Act reauthorization, and, most importantly to this Committee, the role our 1992 budget will play in moving us toward the National Goals.

### AMERICA 2000: AN EDUCATION STRATEGY

One week ago today, the President announced America 2000—a long-term national education strategy designed to move America toward the six education goals, thereby transforming American education, closing today's skills and knowledge gap, and helping to make this country "all that it should be."

America 2000 will ensure accountability and excellence in the classroom, unleash America's creative genius to jump-start a new generation of American schools, transform a Nation at risk into a Nation of learners, and nurture the family and community values essential to personal responsibility, strong schools, and sound education. The plan is bold and specific. It will generate healthy debate and result in concrete action.

This strategy begins immediately. It will show progress in 1992, results by 1996, and by 2000, the six goals can be achieved. Make no mistake: the task is a formidable one. It requires involvement and action by all of American society. There are roles for all of us: the President and his Cabinet, members of Congress, the Federal Government, the Governors and the States, the business sector, local governments and communities, and individuals—teachers and principals, parents and families, local leaders, students, neighbors and friends. America 2000 will bring forth an educational revolution for the remainder of the 1990's, the year 2000, and beyond—a revolution in how we do things, how we act in our communities, and how we educate our children and ourselves to live and work in today's world.

America 2000 is a strategy in four parts to be pursued simultaneously. For today's children, we must develop better and more accountable schools, restructured schools, schools that work, schools where teachers will want to teach, and schools that parents will gladly choose for their children. To accomplish this, we must develop world-class education standards and benchmarks so that we know how well our children and schools are doing. We must provide educational choice so that parents have the leverage to act. We must have more professional teachers and principals well versed in the core academic disciplines of English, mathematics, science, history, and geography, so that the school can be a vital site of reform. And we must see that students' learning extends beyond the school day and into the 91 percent of the time they spend outside the classroom.

For tomorrow's children, we must be innovative and create a new generation of American schools that will truly meet the needs of our children for the new century. With funds from the private sector, we will launch three to seven National R&D Teams, uniting private corporations, think tanks, and education innovators, to marshal America's creative genius into helping communities create a totally new kind of school. We will hold a competition among communities for $1 million each in start-up costs for 535 plus New American Schools that will open in 1996, with at least one in every congressional district. To serve the New American Schools, we want to develop nationwide education electronic networks with electronic library databases, state-of-the-art software, and satellite TV teaching resources.

For ourselves, today's workforce, many of whom are in mid-career without the skills and knowledge to function and compete in our changed world, we need to provide opportunities to go back to school, be it at the workplace, at a community college or university, or in a union hall. We must have literacy for all adults—not only the ability to read and write, also but the knowledge and skills that permit a full life. We need industry and labor-driven benchmarks so that workers know what today's jobs require. We need worksite and community skill clinics so that workers have a place where they can acquire new skills. Government and business leaders will set the example for a Nation of Learners by going "back to school" themselves to gain new skills for work or additional knowledge for life. And we will make the Federal Government the most visible example of employee skill-upgrading.

And for all of us, communities must be places where education can happen. Ninety-one percent of a child's life is spent outside the school, so schools can only do so much. This means total community support for education, for schools, for students. This means adoption of the six goals by individual communities. This means involvement of local leaders in our schools, as role models and mentors. And this means a renaissance of American values, attitudes, behavior, and personal responsibility for ourselves, our families, and our neighbors.

In summary, America 2000 is a national strategy. It honors local control; it rests on local initiative; and it affirms States and localities as the senior partners in supporting education and the private sector as a vital junior partner. It recognizes that real education reform happens community by community and school by school, and only when people come to understand what they must do for themselves and their children, and set about to do it.

In the very near future, we will submit to the Congress our proposed America 2000 Excellence in Education Act, which will include our legislative initiatives to implement the strategy. In addition, me have just submitted to you our plan for using the $690 million that is already included in the 1992 President's Budget to implement the strategy.

## HIGHER EDUCATION ACT REAUTHORIZATION

Our second major initiative for 1992 is the reauthorization of the Higher Education Act. As you know, the Department conducted a thorough review of all current HEA authorities expiring at the end of 1991. The Department also sought and gathered the best ideas and information from all those concerned about the challenges that will face postsecondary education during the coming decade—colleges and universities, higher education associations, State agencies, banks, parents, and students. As a result, three overall themes have guided our proposed changes to the Higher Education Act: improving access to postsecondary education for all Americans, improving educational quality and rewarding excellence, and ensuring integrity and improving service delivery in all HEA programs.

Our budget proposals, of course, also reflect these three themes. We would increase access to postsecondary education, for example, by targeting Pell Grants to the lowest-income students, and by expanding precollege outreach and retention efforts. To improve the quality of higher education and reward excellence for individual achievement, we would support a new Presidential Achievement Scholarship program and an expansion of the National Science Scholars program. We would also consolidate six graduate fellowship programs into one flexible authority in order to focus on the Nation's most critical areas of national need. To ensure the integrity of student loan programs, we would make a number of changes to prevent loan defaults, improve collections, ensure the financial viability of guarantee agencies, and require increased risk-sharing by States and lenders. And to improve the delivery of services, we would simplify the student aid delivery process.

## 1992 PRESIDENT'S BUDGET AND THE NATIONAL GOALS

Although, as you know, I was not involved in developing the 1992 education budget request of $29.6 billion, I can certainly embrace it since it is designed to move us closer to achieving our National Education Goals. In addition, it reflects a Federal role to support and encourage school reform and other education improvements, as well as to ensure access to a quality education for all Americans.

States and localities must lead the way in education reform; however, we at the Federal level must encourage and help them. We need to be sure our Federal dollars support the kinds of efforts and programs that will stimulate creativity, disseminate the most promising and successful approaches to all States and localities, and provide the most leverage for the money our Nation spends every year on education, estimated to be almost $400 billion this school year. This budget is designed to do just that. I would like to share with you some examples of how our budget will support progress toward the goals.

I count myself as a very strong supporter of early childhood education. Early prevention will mitigate much of the need for later intervention. In support of the first goal, school readiness, the budget includes a 21-percent increase for Even Start, which combines early childhood education for at-risk children with adult education for their parents. Preschool activities will also continue to be supported under other programs such as Chapter 1, Migrant Education, Special Education, and Indian Education.

The second goal, high school completion, is addressed in the budget through continued funding for the Dropout Prevention Demonstrations program, as well as Chapters 1 and 2, Magnet Schools, the High School Equivalency Program for migrant workers, and the proposed Precollege Outreach program.

The third goal deals with student achievement and citizenship. The budget includes $5.67 billion, a $119 million increase, for Chapter 1 to assist school districts in providing special instruction in basic and more advanced skills to educationally disadvantaged children. Other programs that address this goal include Chapter 2, Indian Education, and Magnet Schools.

A 19-percent increase in the Eisenhower Mathematics and Science Education program, complemented by a $40 million initiative that will be included in our legislative proposal, are key to our efforts to achieve the fourth goal, math and science performance. Increases are also requested for the National Science Scholars program, as I mentioned earlier, and the Minority Science Improvement program.

Improving adult literacy and workforce skills, the fifth goal, is most directly addressed through the Department's Adult Education, Vocational Education, and Libraries programs, as well as Even Start, and of course our Student Aid and Higher Education programs.

In support of the last goal, safe and drug-free schools, the budget more than doubles funding for Drug-Free Schools Emergency Grants, and continues funding for other Drug-Free Schools and Communities Act programs.

In summary, our 1992 proposals will provide the crucial leverage for educational reform, will address the most pressing problems for our at-risk children, will give support to promising State and local programs, and will increase access to and improve the quality of postsecondary education.

I look forward to working with the Members of this Committee over the coming weeks and months as we pursue our common goals in education.

I will be happy to respond to your questions.

---

## Biographical Sketch of Lamar Alexander

On December 17, 1990, President Bush announced his intention to nominate Lamar Alexander as U.S. Secretary of Education. He was unanimously confirmed by the Senate on March 14, 1991.

Immediately before taking office, Secretary Alexander was president of The University of Tennessee, a position he has held since January 1988. He served as governor of Tennessee from 1979 to 1987. As chairman of the National Governors' Association, he led the fifty-state education survey, Time for Results. In 1988 the Education Commission of the States gave him the James B. Conant Award for "distinguished national leadership in education."

He is a Phi Beta Kappa graduate of Vanderbilt University and was a law review editor at New York University Law School. He was born July 3, 1940. He and his wife, Honey, have four children: Drew, 21; Leslee, 19; Kathryn, 16; and Will, 11.

## PROPOSAL FOR NEW, VOLUNTARY NATIONAL ACHIEVEMENT TESTS

Senator HARKIN. Mr. Secretary, thank you very much. What I propose is that we have a 10-minute time period for questions, and then we can come back around again and I think we have a rollcall vote.

Senator BUMPERS. Mr. Chairman, maybe some of us could stay and ask questions while others go vote.

Senator HARKIN. As a matter of fact, I know that Senator Specter has another committee he has to attend to. Why do I not turn it over to Senator Specter. Can you go ahead and ask questions?

Senator SPECTER. Yes; I can.

Senator HARKIN. I will run over and vote, and then come right back.

Senator SPECTER. Thank you, Mr. Chairman. I do not have another committee which is a priority attention, but I have two amendments on the budget resolution, and there is an effort by the managers of the bill to finish up the budget resolution this afternoon, so I appreciate the chairman's yielding to me at this time.

Mr. Secretary, one of the items in the President's proposal is to give tests at the end of the 4th, 8th, and 12th years to see how the schools are performing on a voluntary basis, and I applaud that initiative. I have seen a determined effort in the city of Philadelphia by Councilwoman Joan Specter to try to find out what the schools there are doing by way of testing their performance. And I would be interested to hear your thinking on why the program is voluntary, and what you think can be achieved by that testing procedure.

Secretary ALEXANDER. Thank you, Senator. We talked a lot about that, and the short answer is that the American achievement test would be a national examination system in the five core subject areas called for in the national goals, namely math, science, history, English, and geography. Those examinations would be to world class standards. They would be examinations that would permit a family in Philadelphia who wanted to know, to find out whether a fourth grader in school there was learning enough math, for example, to live and work in the world the way it is today, a world that includes children from Japan and Korea and Europe and The Netherlands who are learning a lot. And to make a determination about the quality of the school as a whole where their children were learning, and even go so far as to see how the State was ranking, although from a family's point of view that is really a lot less important.

### BASIS FOR VOLUNTARY NATURE OF TEST PROPOSAL

Now, we could try to write a test like that here and line all the children up in America and require them to take it. I do not think that is the best idea. The President does not think that is the best idea, because of the hugeness and complexity of this country, and partly because of just the general orneriness of Americans. Most Americans would rather buy into something. They would rather adopt a goal for themselves, a strategy to reach that goal themselves, than be told what to do. And a big part of the reason for this national examination system is to ring an alarm bell for American families to help them understand that when they might read in the paper that 70 or 80 percent of American fourth graders are not proficient in the math they need to be, that that means their child too, so that they will take their own steps to cause something to be done about that, which has to do with attending school, doing homework, taking it seriously.

And so, reason No. 1 for not making it mandatory is that this big diverse country probably would not tolerate that much centrality, that much imposed homogeneity. Second, that it will probably work better. It will probably cause more Americans to think about the test if they adopt it. I mean, I could see the councilwoman in Philadelphia challenging the city and saying in Pittsburgh they are using the American achievement test to find out what their children know. Why are we not in Philadelphia?

### SHOULD A DRUG EDUCATION PROGRAM BE MANDATED?

Senator SPECTER. Mr. Secretary, may I shift to another subject there? There are two other subjects I want to cover in the 10 minutes which I have, and I can appreciate your interest in voluntariness based on the reasons you have just articulated. You and I have talked about the drug education issue before, and I would like to discuss it with you very briefly on the record. I agree with the standard in Federal law which prohibits mandates from the Federal Government on the substance of curriculum, but I wonder if there is not good and sufficient reason to make an exception when it comes to a drug education program because of the seriousness of that problem, and whether it might not be sensible, at least on drug education, to tie perhaps Federal funding to school districts which have that drug education so that we could be sure, at least on that one subject.

Secretary ALEXANDER. Senator, I can understand your concern about that. I think we all see drugs at the root of so many of the problems that we are awfully tempted to take steps with that that we otherwise would not. We have taken some steps. For example, the Department has formulated a model curriculum on drugs that has been made available to every school in America. Schools may adopt that curriculum if they wish to. The President and the Governors have made drug-free schools one of the six goals. The Congress has appropriated money which is being spent everywhere in America on drug education.

I still think it is a good idea to keep the Federal Government out of mandating a local curriculum, even in an area as important as drugs. I think communities need to be aroused to make those decisions themselves, and it will work a lot better if they do that; we should not do it from here.

### CHOICE PROPOSALS IN 1992 BUDGET

Senator SPECTER. Let me shift to the subject of choice, which has been articulated in the President's program, and in view of the limitations of time ask you to direct your attention at the moment to the issue of the parameters of what you seek to accomplish and whatever first amendment considerations are present in the kind of programming you have envisaged.

Secretary ALEXANDER. I am not sure, Senator, that if you run over your 10 minutes there is going to be anybody that will challenge you.

Senator SPECTER. Well, that may be so, but I will miss a vote.

Secretary ALEXANDER. Oh, you have got to vote. Let me summarize that very quickly. There are three proposals involving choice in the President's proposal. Two of them are grant proposals, one for $30 million, one for $200 million. The $200 million proposal is for school districts and States that want to try to expand the range of choices that families have for their children. The $200 million proposal would only go to districts that include nonpublic schools in their work.

Senator SPECTER. And the basic thrust here is to provide competition, which you think will improve the quality of education?

Secretary **Alexander**. The basic thrust is to recognize that in America choice is a very important value. People choose where they live, they choose the car they drive, they choose the job they have, they choose the college they go to, if they go to college. They ought to be able to choose the school. Second, as you said, we believe that competition will provide a very healthy competitive factor, and that the children will follow the good schools and the money will follow the children.

### FIRST AMENDMENT CONSIDERATIONS IN CHOICE

Senator **Specter**. You and I had discussed this issue before, so I already know your sense of this issue, but I think it is important when we consider the matter to face all of the eventualities or all the potential issues, and I would be interested to hear, for the record, your evaluation of any potential first amendment issue with the choice matter.

Secretary **Alexander**. Well, our position is, as I said, that we would like to respect the decision of a local school district to make whatever pupil assignment plan it wishes. We would encourage it to give parents the broadest choice, but we will respect its decision. We would like for the Federal chapter 1 money to follow the child wherever it goes, as prescribed by the local school district. We recognize, however, that there are some Supreme Court and other cases on the establishment clause of the first amendment, and that it is unlikely at this time that the chapter 1 money can follow the child to a parochial school, for example. But a local school district might conceive of a choice plan that did satisfy the first amendment requirements, and if it did, we would try to honor that decision. We are not the President's lawyers. We would have to get advice from the Attorney General about that.

Senator **Specter**. Mr. Secretary, thank you very much. There is no other member present, but one will return shortly, but there are just a few minutes remaining between now and the conclusion of this 15 minute rollcall vote, so I am going to have to excuse myself.

Secretary **Alexander**. That is fine. I understand.

Senator **Specter**. I know you understand, and others do, that when these votes occur they take precedence over even a hearing involving the Secretary of Education.

Secretary **Alexander**. Thank you, Senator.

Senator **Specter**. We will recess temporarily.

[A brief recess was taken.]

### EARLY CHILDHOOD INTERVENTION NECESSARY

Senator **Harkin**. The subcommittee will resume its sitting. Again, our apologies, Mr. Secretary, but such is life around this place. Mr. Secretary, I will take my 10 minutes. Would you keep time so I can get to Senator Bumpers? As I said earlier, you know, I am going to sound like a broken record on this issue of early childhood intervention programs. You talked about the fourth track being all those other things outside of school. Again, I point out that the national Governors put that as their No. 1 priority, and again, making sure that the kids are ready.

## NEED TO LINK EARLY HEALTH SERVICES TO EDUCATIONAL OUTCOME

We know that if a woman abuses herself during pregnancy and does not have good nutrition, that the chances are the child will be born low birthweight, with all the accompanying problems that gives rise to. If the child does not have adequate nutrition to the brain—we know how it develops in the early years, early months of life—and then, if there is no intellectual stimulation during those first few years of life, then by the time they are 5 years old you are going to have all the remedial reading and remedial math and remedial everything you have got, and the kid is still not going to make it. So that is why I feel so strongly. There is such an urgency about this.

I might just say as an aside, I was one of those that supported separating the Department of Education out and making it a separate agency back whenever we did that. I am beginning to wonder if maybe that was right. Maybe health and education are so closely intertwined that perhaps we should not have separated them. I remember your response last week when we sat in this room, or whatever room it was, and you outlined the America 2000 strategy and talked about this. Of course, that is in Secretary Sullivan's bailiwick, but somehow the two of you have got to get together with some interagency structure to provide that this is a part of education.

Like I quoted from the CED report, I know you are familiar with it—and these are the CEO's of some of the largest corporations in America, university presidents, others, saying that we have got to change our thinking. We have to think of education as beginning at birth, and the preparation for education beginning before that.

And so when I look at the Federal programs that we have to do this, childhood immunizations, Head Start, maternal and child health care, WIC programs, they are all underfunded in the budget. You are right; strategy four addresses this to some degree. It talks about better coordination of existing Federal programs, reducing Federal redtape, et cetera. But it does not talk about additional spending.

I just want to ask, what are we going to do? What are your goals in America 2000 to start focusing on this? You mentioned it in your statement today before the committee. I appreciate that very much. But how are we going to get people to start thinking of education as starting at birth, and what are we going to do to really start putting the kind of services we need down there?

Again, one other example, we spend—I am sure as a Governor or otherwise you have been to a neonatal care unit. You have seen these low birthweight babies. They just tear your heart out looking at them. I understand from talking to doctors in hospitals it costs up to $2,000 a day to take care of these kids. For maternal and child health programs, at least in my State of Iowa, for less than $500 they can get not just information, but actually personal services to an at-risk pregnant woman from month 1 through delivery, for $500 for 9 months. They tell me they have got about a 90-percent guarantee rate that 9 times out of 10 that child will not be low birthweight, but will be a healthy baby. For $500 for 9 months. We cut that program, and yet through Medicaid will pay $2,000 a day for low birthweight babies.

### EARLY HEALTH CARE AN INTEGRAL PART OF EDUCATION

Well, again, I see this as such an integral part of our education process, and I apologize for sounding like a broken record, but I am going to keep hammering on it, because we are just not going to solve all these problems later on until we get it up front, and I just ask for your best thoughts on that and how we are going to bring this together.

Secretary ALEXANDER. Well, first, generally I agree with what you just said, and if your question is what can we do about it—and just so you do not think that is some sort of hollow response, I had some, I may have told you when we visited before, I had some personal experience with that in growing up in the 1940's during World War II. My mother for 30 years had the only preschool education program in town in her garage, in our garage, converted garage. And there were 25 3-year-olds in the morning and 4-year-olds, and 25 5-year-olds in the afternoon. There was no such thing as public kindergarten at the time, and not much recognition of the importance of early childhood responsibilities. She had nowhere to put me during that time, so I went there for 5 years to that program. So I got a good dose of that kind of care after I was born.

While I was Governor, as I was trying to look about how to move our State ahead and got into education, we then, along with what we called our better schools initiative, had a healthy children initiative. My wife became very involved in helping expand the prenatal health care program to every county in the State, because we thought, just as you do, it is critical. I have visited some of those same neonatal health care centers and seen the predictability of what happens with a premature birth, a mother who has not taken care of herself, a baby who does not have a pediatrician as soon as that person is born, and I have also seen the good that a program like WIC and Head Start can do in the communities where I have lived. Now, having said all that, I agree with that.

### CONSTRAINTS IN MEETING EARLY HEALTH AND EDUCATION NEEDS

So, as far as those programs are concerned, I think the only question that we have, or the only area of disagreement we would have would be in this budget year how much money can the President find in his budget or can the Congress find within its budget limits.

The Head Start Program has gone up 35 percent over the last 2 years. That is a big increase. There is a long way to go and I think you will find the President amenable to further increases in Head Start in other budget years.

What can we do about it? I think the President has done one important thing by making one entire part of his strategy the importance of the things that happen outside the school, and mentioning them, for example, Head Start, in his address. The difficulty with all of this is—and we found this when we worked on prenatal health care in Tennessee—it was not the money so much; it was getting people to make decisions for themselves. Working with the nuns and other volunteers, talking to women about health care for themselves when they were pregnant, it took a lot of persuasion and a lot of work, and it was not just the money that made the difference. Health care is, to a great extent in the preventive sense, a set of personal responsibilities.

So that is why we are talking about such things as break-the-mold schools. We think that a community in Iowa, for example, that took 400 kids who were at risk and sat down as a community and said what do these children need, they would inevitably be led back to the questions you asked, and then they would have to find a way to answer them locally there, which is probably the only place in the end they can be met.

So I wish I could tell you that there is something the Federal Government could do at a distance to cause this problem to disappear. You have not suggested that, but I do not know of one. I agree with your philosophy. I agree with your emphasis. This is all the money that the President can see in this year for these programs.

### PRESCHOOL PROGRAMS: WHERE DOES PRIMARY RESPONSIBILITY LIE?

Senator HARKIN. Mr. Secretary, obviously the role of the Federal Government in the past has been basically to help students—help those disadvantaged students early in life, rehabilitation, disability, that type of thing, and then postsecondary education. So elementary and secondary education have been left to the State and local governments, obviously. But in terms of preschool that has never been carved out. That has not been distinctly a local and State responsibility. The Federal Government has stepped into that breach in the past with the very programs we just talked about.

So I do not think we have to shake our heads and say well, how do you get these local people involved? Well, the Federal Government has stepped in and we do have a maternal and child health program that is funded by the Federal Government. It works, and we know the results of it, and we know how many people need that help. You are right. Getting people to make these decisions is very hard.

If you have got 1 worker who is dealing with maybe 100 pregnant women and has to ride over a great distance, then maybe she visits each pregnant woman once every 3 or 4 weeks. But if you had one worker for every maybe 10 or 15 or 20 pregnant women, who could look at them every week, every 3 or 4 days, and kept that process up, then you could get them to make those decisions. I submit it is a lot cheaper than the $2,000 a day we are spending now.

In the WIC and the Head Start Programs the Federal Government stepped in—I guess what I am saying is I think we ought to look at a new role for the Federal Government in education. Pre-elementary school ought to be a distinct role for the Federal Government, leaving elementary and secondary up to State and local governments as we have in the past, or whatever experimentations we may want to ask them to do, and that is why, when you say there is no room in the budget, there is room. I mean, the programs can absorb it. Head Start can absorb it. The WIC Program can absorb it.

We have people out there that can work, that are qualified in maternal and health programs, that could go out there right now, if we had the money. But when the President does not request it, and we are constrained by the budget agreement, there is not much we can do, and our hands are tied. If the President were to request it, then we would find it a lot easier to fund those programs.

So I am going to keep talking about this and pushing as much as I can to get the focus down on those early years. I think what the President has requested is totally inadequate. What we have been talking about I think is equally as inadequate, and I do not see any plan, either on our part, the Congress' part, or the President's part, to lay out a plan for the year 2000 of how we are going to get to every kid in America to make them ready to learn by age 5. I do not see it there. The Governors request it, others, but I do not see any plan there.

### COORDINATING HHS AND EDUCATION PRESCHOOL PROGRAMS

And I hope that, working with you, that sometime this year we can develop such a plan with the Secretary of Health and Human Services.

Secretary ALEXANDER. Well, on that point, as we discussed the other day, I have visited with Secretary Sullivan a couple of times about this. I will do it again, especially because you mentioned it, and I know the President wants him to take a major role in this area. And so we will work together, and the President has asked us to visit with him next week, as a matter of fact, about ways that the Cabinet can work together in support of some of these areas. One of the main areas would be this track four, things that are done outside the school. So that we will follow up on, and I will be glad to report back to you about it.

Senator HARKIN. I would appreciate it. If you would call in Mr. Renier, the head of Honeywell, the head of the Committee for Economic Development [CED], and you may know him personally—I really do not know him, but I have read the report, and they focus very much on that one aspect. I would appreciate it if you would perhaps bring him in somehow and get his thoughts on that. Like I say, I have no case to make for Mr. Renier, I do not know him personally. I do not think I have ever met him. But I know what the Committee for Economic Development did.

Senator Bumpers.

### NATIONAL FACULTY ORGANIZATION

Senator BUMPERS. Mr. Secretary, first let me say that I enthusiastically supported your confirmation. My own Governor thinks very highly of you, and I know that the two of you were powerful leaders for education and innovation in education in the Governors' conference. Around here, as you know, we have 535 men and women, all with the ultimate solution for what we need to do in education. The other 534 are wrong. So let me just start off by telling you what we need to be doing.

First of all, an interest of mine which is of a parochial nature is the national faculty. Are you familiar with them?

Secretary **ALEXANDER**. Is the what?

Senator **BUMPERS**. The national faculty. This is a group—I know your aide is familiar with it.

Secretary **ALEXANDER**. Deputy Secretary Sanders knows a lot about it.

Senator **BUMPERS**. Let me give you a 60 second education on this, Mr. Secretary. The national faculty is a group of professors from the top colleges and universities in the country, Brown, Princeton, Williams who give their time to teacher education projects across the country. When they first came to see me 4 or 5 years ago I thought it was almost a joke. I could not imagine people who were some of the outstanding scholars of the country being willing to do this. But I will tell you what they do. They have a national organization housed at Emory University, and they go into school districts, and work with the faculties of those school districts. And they donate their time. All they ask for are just per diem expenses for room and board, but they donate their time.

I fancy myself a Civil War buff and one of the faculty members I knew because I had read some of his stuff on the Civil War. I never thought of a man of his eminent scholarship going into Helena, AR, to deal with history teachers in that school district. It was pretty exciting.

So last year for a program called the fund for innovation in education, we appropriated about $27.8 million. Despite the strong Senate language in favor of the national faculty, the conference committee report referred to a number of projects, including the teacher training project of the national faculty. We were able, however, to protect the large funding increase for FE, including funds for the national faculty project.

In any event, I got $2.5 million specifically for the national faculty. The project we envision will be headquartered in Memphis and would go into 25 school districts in the delta. Are you familiar with the Delta Commission and the report that it handed down about the delta?

Secretary **ALEXANDER**. I know something about that, Senator, yes.

Senator **BUMPERS**. Well, you know the delta, of course, because you governed a good portion of it when you were Governor. But in any event, the idea of spending $2.5 million to get some of the top scholars in the country into 25 of the poorest districts in the delta—in Mississippi, Louisiana, Arkansas, Tennessee—does that sound like a pretty good investment to you?

Secretary **ALEXANDER**. Senator, if it can fit within the budget, of course it would help.

Senator **BUMPERS**. The money is already in the budget.

Secretary **ALEXANDER**. It sounds like a wonderful idea. And respectfully, there are a lot of wonderful ideas that will help in education which may or may not be able to go within the budget. But if you are asking me do I think that it would help for a professor from Brown to give his time to come to a delta county, well, sure it would be great, if it could be done.

Senator **Bumpers**. Let me just close out the question on that to plead with you to read the letter I sent you on this. It sets the whole thing out in great detail.

Secretary **Alexander**. I would like to do that. I appreciate your letting me know about it.

Senator **Bumpers**. I promise you, the Federal Government could not spend $1 and get a bigger return that it would with this national faculty program. Everybody seems to agree that continuing education for existing faculty is essential. Now, you have in your budget here something ~~called Gover~~nors Academy for Teachers. Claiborne Pell has a slightly different concept, and I have still a different concept.

Secretary **Alexander**. OK. Maybe we can get them together.

### NATIONAL ENDOWMENT FOR THE HUMANITIES: SUMMER INSTITUTES

Senator **Bumpers**. And last year Senator Pell and I tried to meld our two and did a fairly good job of it, but as you know, Senator Helms put a hold on that education bill last year so it never came out.

But my proposal is based on something that I think you are familiar with, and that it tracks almost totally, and that is the National Endowment for Humanities summer institutes. Are you familiar with that program?

Secretary **Alexander**. Yes.

Senator **Bumpers**. The National Endowment seminars are funded out of Interior Subcommittee and that is Senator Byrd's subcommittee. We will probably increase them another $1 million this year. That will give them about $10 million for summer institutes. Now, that program has been going and has been growing to some extent since 1983. I just happened to read about it one time in Time magazine about how 2,200, over 2,200 teachers sought 200 slots at the University of Texas for one of those summer institutes.

Secretary **Alexander**. These are elementary and secondary teachers?

Senator **Bumpers**. They are indeed. And one of my concerns was, I originally just wanted them, those summer institutes, to teach humanities. I want them to teach history, I want them to teach literature, art, art appreciation, the Constitution. Math and science, I realize, is extremely important, we have severe deficiencies in those areas, but ~~I wante~~d people not to forget what makes a civilized country, namely the humanities.

### GOVERNORS' ACADEMIES FOR TEACHERS

Mr. Secretary, I would appreciate it very much, if you would take a look at my legislation to establish seminars in the humanities for elementary and secondary teachers. I believe it is similar in important respects to your Governors' academies.

Secretary **Alexander**. That is right, Senator. The specific idea is a lot like what you described. We are trying to make it this strategic. The national goals talk about five core curriculum subjects, let us say for the children of Arkansas, history, English, science——

Senator **Bumpers**. Now, do you want one of those core schools in each State?

Secretary **ALEXANDER**. The idea would be, in Arkansas, the Federal Government would fund one in each area for Arkansas school teachers to come to in the summer, for say, 2 or 3 weeks, and if we are going to say the math we are teaching is not the math we need to know, then they have got to have a chance to learn about the math we need to know. Teachers would come every summer.

What might happen is that a major corporation might say well, if they are going to come we will give some money to pay them a stipend. They do not have any salary in the summer. The University of Arkansas might sponsor it, let them stay in the dormitories. And so it seems to me like there might be a good way to take your initiative and Senator Pell's, and put the ideas together, because they sound a lot the same.

Senator **BUMPERS**. They are. And there is no pride of authorship with either Senator Pell or me.

Secretary **ALEXANDER**. Neither here.

### INNOVATION IN EDUCATION AND SCHOOLS

Senator **BUMPERS**. Our staffs worked very hard last year in trying to meld the two proposals. And I just think it is absolutely essential that we do that.

Having said that, let me also say, Mr. Secretary, I am not persuaded that we need an awful lot of innovation. I think we have had enough programs in this country that we know basically what works and what does not. For example, we know Head Start works. Everybody is committed to Head Start. What we have not been committed to is funding it so that 100 percent of the kids eligible for it get it.

Secretary **ALEXANDER**. Well, you know, I would agree with what you said, but I would not agree—except I do not agree we do not need innovation. See, I do think we know what to do, and I do think that——

Senator **BUMPERS**. Well, I am not suggesting we do not need any innovation.

Secretary **ALEXANDER**. I know you are not. I know that is not what you meant. But—Head Start does work, OK. We do know what to do. The problem is we do not have places in which to do it. I mean, take Helena, AR. There are not enough people in Helena, or in Maryville, TN, my home town, who really are convinced that most children there are not learning enough math, enough science, enough history, enough geography, enough English. They hear that about America, but they do not really believe it about themselves.

And so the idea of the break-the-mold school is to say, here in Helena let us find out, let us take these 400 children, they are not the smartest children, they might not even be the most at-risk children, just 400 children who need to go to school, and let us figure out what they need and then figure out how to give it to them. And the idea would be that that would help teach the town what needed to be done, and that they would come to a conclusion and say, holy smokes, I did not know that is what you called math. They find out that that is what you need if you are going to keep a job in a Saturn plant so you could make a defect-free headlight so that people will not buy Toyota. People do not understand that until it is too late.

So the innovation is not what needs to be done. The innovation is finding, innovating so we can find places in which people can be challenged and aroused to do things differently. I mean, clearly in Helena, AR, they do not bring down the National Geographic films to help teach geography. They may know to do that or they may not know to do it, and even if they did know to do it the system would not permit it. We need to break the system so that we can do the things that we know to do. And that is the idea behind the new generation of American schools.

I agree with you. I think most—we have all this knowledge around. We need a place in which to use it properly.

Senator BUMPERS. Mr. Secretary, let me ask you this question, and I regret that we only have 10 minutes each, because I do not think in 10 minutes you can really——

Secretary ALEXANDER. I may have used your 10 minutes.

Senator BUMPERS. No; that is quite all right. Everybody in the Senate knows how to filibuster, too. And I am not suggesting that you are. I have read the report on "Education 2000," and I must say that there are parts of it that I think are dynamite, there are parts of it that I think are fairly mundane, and there are parts of it that I think are pure politic.

Secretary ALEXANDER. That is a pretty good mix.

### HOW DOES AMERICA 2000 ADDRESS THE POOREST COUNTIES?

Senator BUMPERS. An awful lot of buzz words just keep appearing in that. But let me ask you this. Let us go back to the delta, and talk about breaking the mold. Now, there are two or three things that really concern me. Let us take Tunica County, MS, Philips County, AR, or Lee County, AR. You know those counties, Mr. Secretary, where poverty has been pervasive for 100 years.

Now here in this summary that is put out by the press secretary at the White House, it says parents and teachers should encourage children to study more, learn more, and strive to meet higher academic standards. The President encouraged parents to read aloud daily to their children, especially their younger children.

I can tell you that in those counties I just mentioned to you, you would be amazed the percentage of parents who not only cannot read, but there is not even a book in the house. Now you say why do they not pull themselves up by their own boot straps? In that county they do not have a tax base with which to do it. How does this program deal with school districts like that?

Secretary ALEXANDER. Well, those school districts have a harder time, although I think of school systems like the one you mention in Henderson County, TN, and Lexington. I always marvelled at that county. It spent about the least of any county per student, and it has some of the best schools and best score results. I mean, more than the money, as important as it is, it is the awakening, the challenge. And what the President would hope to do, for example, is to, you know, take a county like that, and the President and the Senator go there, call the whole community together and challenge them to be an America 2000 community.

You know, that sounds hokey at first, but if you say, now these are the goals, and that means there are five subjects and this is what you need to know, and what is your strategy for doing it. Let us develop a report card to see whether you are getting there, and try one of these schools. It would be a community education, to shock the community into awareness that they could do it. Then if it turns out they do not have the money to do it, at least people know what the money is for.

The problem today is people will not, all over the country people will not vote more money for schools because they do not believe they are getting the results they need. And what we are trying to do is create some ways to attract support for public education. It seems awfully indirect, but I do not know any other way to do it. You have been a Governor, and you know how local such things are. And what we are really trying to do is ring an alarm, shock people into awareness that they have to think differently, to start with.

### ANNIE CASEY FOUNDATION

Senator **Bumpers**. Did you ever hear of the Annie Casey Foundation?

Secretary **Alexander**. Yes; doing work with, usually in urban areas and at-risk children.

Senator **Bumpers**. Children at risk.

Secretary **Alexander**. Doing some very good work.

Senator **Bumpers**. Little Rock has one of those grants. Is my time up?

Senator **Harkin**. Thirteen minutes.

Senator **Bumpers**. Thirteen minutes. Well, I only wanted 60 more seconds.

Senator **Gorton**. I will yield you 60 seconds.

Senator **Harkin**. I have heard that before in the Senate.

Senator **Bumpers**. He just yielded me 60 seconds. Thank you very much, Senator Gorton. The Annie Casey Foundation has a grant in Little Rock, as they have several around the country, as you correctly pointed out. And they are trying to deal with kids at risk, kids who come from homes where there is violence, where there is a single parent, where there are all kinds of things to keep that child from learning. I mean, when you do not have anything even resembling a normal home life or a normal family life, and you just talk about breaking the mold, you are not going to break it. That child has to have individual attention. You have to make sure he has a physical exam. You have to make sure that he is well fed. All of those things. And that is what this foundation is doing.

I will quit where I started, and that is we know most of the things we have to do in education in this country, and all we need to do is be determined to do it, which we have not yet committed ourselves to. And I must say, Mr. Secretary, with the utmost respect, some of the things in this America 2000 strategy I think are badly needed. I think they are right on target, but there is also this point. You are not going to help schools that I mentioned a moment ago without money. It is going to take money. It is going to take a massive commitment of determination, plus money, plus innovation. All of those things.

And so, you know, it is what Alexis D'Toqueville called enlightened self-interest. We either do it for our own benefit and the future of our children, or we just keep sliding. OK, so I took 120 seconds.

Senator **Harkin**. There is a vote on. Senator Gorton.

### BUDGET OF $690 MILLION FOR AMERICA 2000 STRATEGY

Senator **Gorton**. Yes; thank you, Mr. Chairman. Mr. Secretary, I am sorry I was not here for your formal testimony. I am looking at page 5, at which you say you will include legislative initiatives to implement your strategy, and that you have submitted a $690 million plan in the President's budget to implement that strategy. I wonder, first, is the $690 million to which you refer there $690 new dollars, or is it a reshuffling within the education budget, which we received in January?

Secretary **Alexander**. The answer, Senator, is that it is not a reshuffling. The money was in the budget in February. It was generally described so that we would have a chance to more specifically describe it later, after the President's proposal.

Senator **Gorton**. OK. Could you give me a brief outline now in this short period of time as to where you want to put that $690 million?

Secretary **Alexander**. Yes, sir; Bill Hanson—this is a letter, Senator Gorton, that we have just distributed to the Appropriations Committee, and on the page which you have in front of you, which, I believe you have that page on America 2000——

[See page 562, this volume.]

Senator **Gorton**. I do.

Secretary **Alexander**. That is precisely where we would like to put it. We propose to have that authorizing legislation to Senator Kennedy's full committee by the end of the month. There are 44 action items in the President's strategy. About 6 of them involve Federal legislation, and as you can see, about 10 or 11 of those would involve new authorizing legislation.

### CHOICE IN AMERICA 2000 STRATEGY

Senator **Gorton**. I am looking at one which seems to have been a centerpiece of the President's proposals even before you became Secretary of Education, and certainly has been emphasized by you on page 3 of your testimony. One of the sentences reads we must provide educational choice so that parents have the leverage to act. Of the $690 million, it looks to me as though $30 million is earmarked for that purpose.

How do you propose to provide any significant degree of Federal leadership with respect to choice? That is obviously an extremely modest number for what may be, what almost certainly is clearly the most radical or profound of all of the changes in our education system which you propose.

Secretary **Alexander**. Thank you, Senator. I will make this brief. I would agree with you that it is a powerful change. I would not agree that it is the most—there are other parts of the strategy that have more potential for transforming American education than it does. For example, a national examination system in the five core subjects that might be developed during the 1990's——

Senator **Gorton**. Well, it is easy for me to see how you could come up with a national testing system, or with goals, or even with tests that would measure that kind of achievement for a relatively modest amount of money. For the life of me, it seems to me difficult to see how you create choice across the United States for $30 million.

Secretary **Alexander**. Well, you could not. We have recommended more. Now, I can get a lot done, apparently, without any money, because it appears that I can get in about five fights a day on the way to work over this issue. This stirs people up more than most issues. We have three recommendations involving choice. One is the one you mentioned, which is a demonstration program. A second, which was in the President's budget in January, part of his $690 million, is $200 million for school districts that want to expand the range of choices that parents have to include public and private schools. That money would go to those districts as an incentive.

Finally, we would like to take the $6 billion chapter 1 program, which is the largest elementary and secondary program we have, and make it as easy as possible for the money to follow the child, if that is what the local school district wants to do, and if the Supreme Court permits.

Senator **Gorton**. And just to make obvious what I suspect is already clear, when you speak of choice, you are not speaking of a Minnesota-type system of choice among various public school alternatives, but of a choice system which would involve the private sector and private schools, both parochial and secular?

Secretary **Alexander**. That is true, but recognizing two limits. One is respect for the local jurisdiction's decision about such things. And second is whatever the Supreme Court says the Constitution requires insofar as parochial schools or religious schools might be concerned.

Senator **Gorton**. Mr. Chairman, I think I can terminate it at that point, given the status of our vote. Thank you very much, Mr. Secretary.

Secretary **Alexander**. Thank you, Senator.

Senator **Harkin**. Mr. Secretary, again, I am sensitive of your time, we have another vote on. But I know Senator Bumpers said he had a couple more things.

Secretary **Alexander**. I would be glad to wait on him, if you would like.

Senator **Gorton**. On Arkansas time.

### NEED TO LINK CHILD CARE WITH EARLY CHILDHOOD EDUCATION

Senator **Harkin**. I would kindly say he has a couple of questions to ask, but I am not certain that that is quite the proper definition. Let me just—talking about questions, I will get back to my own thing here, my broken record again. The Secretary of Health and Human Services, Mr. Secretary, has just put together, joined a couple of different agencies under his jurisdiction, and it is now called the Families and Children Division, the Administration on Families and Children.

That is going to be the one that has jurisdiction over the day-care program that we passed here in Congress last year, which this subcommittee funded last year for the first time, and, of course, I am being asked again to put more money into it by the authorizing committees. Senator Specter and I are going to have to work that out. But there really is not an education component to that. And I hope, again, in your working with Secretary Sullivan, you come up with some suggestions to us about working in an education component of day care.

Again, at the risk of sounding like that broken record, the Committee for Economic Development report again said that the artificial separation between child care and early childhood education is counterproductive, and recommended that all programs for children from birth to age 5 have an education component. And I would hope we would in the day-care programs, too. Whatever leadership you can provide in recommending what kind of education components we can put in there, I would appreciate.

### STUDENT LOAN DEFAULTS AND PREVENTION MEASURES

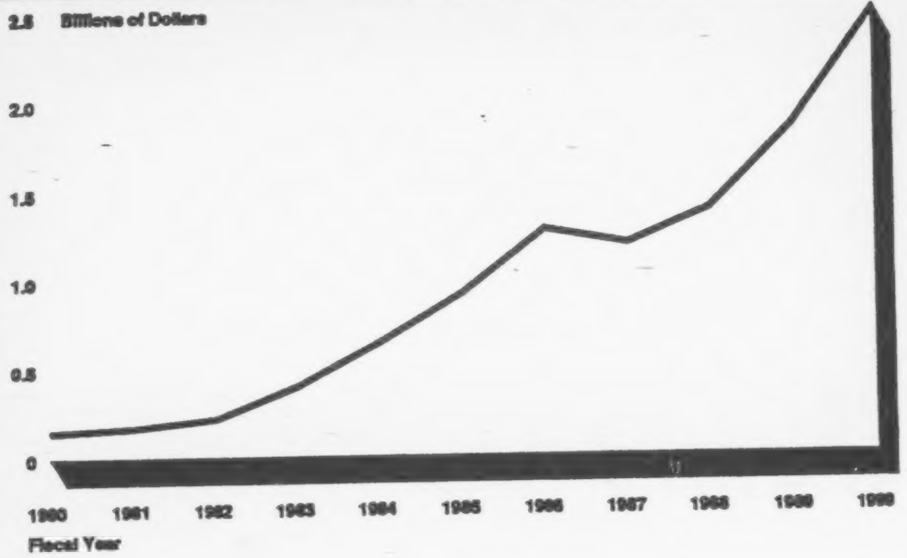
Can I just go over one thing with you, though, in terms of money? That is what we are about here, is money, and we are asked to spend money.

Secretary ALEXANDER. Right.

Senator HARKIN. Could I see those charts up there? I want to show the Secretary these things. I am sure he understands them, but I have got to get to it. One thing frustrates me more than anything else, Mr. Secretary. The third largest component of our budget is student defaults. Over $2.5 billion a year. Now we have tried to do a lot of things. Up here we had a lot of major reforms. We have had 17 laws enacted since 1980, over 80 provisions on default prevention or loan collections. The regulations of the Department in 1986—here, I have got a whole book right here. These are all the laws and regulations on what we are going to do to cut down on student loan defaults. We have the initiative of just 2 years ago, when I first took over this subcommittee.

GAO

# Loan Default Growth Since 1980



Note: Dollar amounts represent reinsurance paid to guaranty agencies.

### Major Changes Related to Loan Defaults Since 1980

Seventeen laws enacted that had over 80 provisions on default prevention or loan collections.

Department reauthorization regulations in 1986.

Secretary's default reduction initiative in June 1989.

### Legislative Proposals Submitted for Several Areas

Five items on default prevention.
Three items on default collection.
Eight items on guaranty agency improvements.
Three items on risk sharing.
Nine items on other areas.

### DEFAULT RATE

But look at the second chart. Look what has happened. With all of this, from your Department, from this Congress, the default rate continues to go up at an alarming rate. As I said, over $2.5 billion. The cost of student loan defaults right now is more than 3.5 times the amount of money you want to spend on America 2000, just on the default rate. It has increased 1,600 percent since 1980. And on the third chart you are proposing more of these things. Five items on default, three items on collection, eight items on guaranty agency improvements, three items on risk sharing, eight items in other areas. So we are asked to look at other things on that. And yet it keeps going up.

The reforms that you are calling for, I think that is on the last one, I believe that that, if I am not mistaken, shows the amount of money here. Right here. If we adopt all of your proposals, the net savings we are going to have is $87 million, out of $2.5 billion. And for the next 4 years the net savings will be about $464 million. That just does not do anything. It does not get us much. We have got to cut down on these student loan defaults. As I said, we have got the laws, we have got regulations, we have had your proposals, not yours specifically, but the Department's, and nothing happens. It is frustrating. Do you have any new ideas or suggestions or proposals for doing something about this?

### GUARANTEED STUDENT LOAN MANAGEMENT REPORT

Secretary **Alexander**. Yes, Mr. Chairman. What you described is a totally unacceptable situation.

Senator **Harkin**. Unacceptable.

Secretary **Alexander**. It is the result of either poor policy, certainly poor management, or both. And it is one of the top priorities that we are working on. The first step that we have taken first is to consider a joint report made by the Department and the Office of Management and Budget that Dr. Sanders has played a key role in. I would like him to talk just a couple of minutes about that.

And I have brought in, since it is as much as anything just a straight-out management problem, we have attracted to the Department a first-rate, hands-on manager, Mike Farrell, who has had a very successful career in business. He was in Government before that. He has taken full charge of the student grant and loan problem, and the implementation of the report's recommendations. He has been on the job for 2 weeks, and we are very impressed with what he is doing. I would be happy for him, at any time you would like after he gets his feet on the ground a little bit, to come by and give you a report, either privately or at a hearing, about what is being done.

Senator **Harkin**. Anytime.

Secretary **Alexander**. I think you might be impressed, though, to tell you the truth, with the work that Ted Sanders and the Office of Management and Budget have done in the last few months, because they have taken a number of steps. And if you have time, I would like for Ted to summarize those briefly for you.

Senator **Harkin**. Could you, I have got 2 minutes left. I think I can make it. Would you mind waiting?

Secretary **Alexander**. I will give you a copy of it. Why do I not leave that for you?

Senator **Harkin**. OK. Senator Bumpers will be back, and then I will be right back, and we can go over that. I would appreciate it. I assume he is going to be right back. Do you have some more time?

Secretary **Alexander**. I will do whatever you like, Mr. Chairman.

Senator **Harkin**. Well, I appreciate that, Mr. Secretary. Senator Bumpers will be right back. We will recess for just a couple of minutes.

[A brief recess was taken.]

### FEDERAL EDUCATION SPENDING AS PERCENT OF TOTAL

Senator COCHRAN. The chairman has authorized me to continue the hearing in his absence. We are doing this sort of shuttle service over to the floor and back on votes, and we apologize for the inconvenience that this may be causing to witnesses and members of the committee and staff and others. But he did indicate an interest in continuing the hearing after this vote, so Senator Harkin will be back in just a little bit.

One thing that I was looking at, Mr. Secretary, the other day and trying to figure out for myself how to answer some of the charges that people make about the fact that the Federal Government is not doing enough in terms of financial support for education. You touched on it in your opening statement when you put into perspective the 6-percent contribution the Federal Government makes to the elementary and secondary education costs in the country, and the 15-percent contribution to higher education costs. And one thing that I think we sometimes overlook is the fact that there are other agencies of Government spending large sums of money on education at the same time the Department of Education's budget is under review and allocating funds for education.

### TOTAL EDUCATION SPENDING AS PERCENT OF GROSS NATIONAL PRODUCT

I was trying to pull together some information also to try to identify the percentage of our gross national product that is spent on education. And I cannot seem to find anybody in Washington who has that number. The other day the Washington Post carried a very interesting article talking about the percentage of the GNP that is allocated for health care costs, and here was this graph and tracking over a period of several years showing the increase in spending for health care in America, and how it had been going up by substantial amounts each year over the past 8 years, or some period of time.

And it occurred to me that I would imagine education spending in America today, if you take into account Federal, State, and local government expenditures, the expenditures that are made by business and industry on training programs and in contributions to tuition costs, and the rest, the amount individuals earn and save and then spend on education that are family members' education activities, the total figures are going to be startling in terms of the dollar amounts, and also as a percentage of our gross national product.

And I think that is one of the reasons why the President and others, such as you, Mr. Secretary, are interested in trying to make sure that we are getting our money's worth. We are putting an enormous amount of money into education. And those who come to this committee every year and wring their hands over some reduction in a request for one or another Federal program, as if that is going to make a huge amount of difference in the overall outcome of our educational product, to me are missing a big point.

And that is that most of these Federal dollars are targeted to special needs, either in higher education for those who do not have any money, who cannot get to college without Federal Pell grants or loan programs, and those at the elementary level who are served by school districts who are burdened with large numbers of disadvantaged students and they need extra help, and they do not have the local budgets to support the extra help. Those are the two principal targets of our Federal resources.

My question is, do you have available at the Department, or can the Department come up with an analysis of the total spending that occurs each year in America on education, at all levels and from all sources?

Secretary **ALEXANDER**. The answer is yes, Senator, we can. And the answer is that the Nation's education expenditures this year overall, public and private, based on our best estimates, are about $400 billion. That is about 7.1 percent of the gross national product. That includes Federal, State, local, public, private. By comparison, the Nation in 1980 spent $166 billion on education. So between 1980 and 1990, the Nation's spending on education went from $166 billion to $400 billion. That is about a 140-percent increase.

### TOTAL EDUCATION SPENDING COMPARED TO DEFENSE SPENDING

Now, Federal funding went up about 110 percent during that time, but the State and local increases were much more dramatic. The Federal Government today pays about 6 percent, or really about 8 percent of that $400 billion. That counts elementary, secondary, and colleges and universities. I think it is maybe interesting that the amount of money that the Nation spends on national defense is less than that. We spent about $400 billion on education this year. We spent about $300 billion on defense, excluding Desert Storm.

### CHANGES NEEDED IN WAYS CHILDREN ARE TAUGHT

So I am not sure what all that proves. I think one thing it suggests is that during the last 10 years there has been an enormous unprecedented increase in spending for education in America, especially at the State and local level. During the last year alone spending went from $370 billion to $397 billion. We have become one of the, unarguably, two or three top nations in the world in terms of spending per student. And for that amount of money we ought to be getting better results.

The point of the President's strategy is that the fault is partially in the schools. The world has changed and our schools are anachronistic. They are archaic. They are for another time. I mean, children are learning outside the schools in exciting ways, and inside the schools in ways that their grandparents learned. But maybe more important is that our attitudes have not changed. And some of our institutions that are very important for learning have deteriorated. We have got to be honest about that and face up to it. We cannot do much about that from Washington. That has to do with community and individual and personal responsibilities.

### EDUCATION SPENDING AS PERCENT OF GROSS NATIONAL PRODUCT: 1980 AND 1990

Senator **BUMPERS**. Senator Cochran, if you would yield just to pursue——

Senator **COCHRAN**. I am happy to yield, Senator.

Senator **Bumpers**. Seven percent of what we are spending on education now, I assume that is elementary and secondary?

Secretary **Alexander**. No, sir; that is the total bill of our—7 percent of the GNP is spent on education.

Senator **Bumpers**. And the figure for 1980 was what?

Secretary **Alexander**. From 1980 to 1990—$166 billion in 1980.

Senator **Bumpers**. My question now is what percentage of the GNP was that?

Secretary **Alexander**. That was about 9 percent. Well, not of the GNP. About 6 percent, Senator, I am advised.

Senator **Bumpers**. So we are spending 1 percent more of the GNP now for education, is that correct?

Secretary **Alexander**. Yes, Senator, most of that increase coming from State and local taxes.

Senator **Bumpers**. Thank you, Senator.

## EDUCATION SPENDING BY OTHER FEDERAL AGENCIES

Senator **Cochran**. One thing, too, I think is interesting to observe, and I get this from a chart from the U.S. Office of Management and Budget, and that is of the percentage of total Federal dollars that are being spent on education, only 44.4 percent comes under the jurisdiction of the Department of Education. People look at the Department of Education's budget, I think, and wrongly assume that that is the total Federal commitment to education every year, and that is just not right. And so you get the hand wringers coming up here again saying you are devastating the future of our children because the Department of Education's budget is here and it should be there, and the Federal commitment, therefore, is lacking in terms of trying to improve education.

The fact is the Department of Agriculture contributes 12.3 percent of the Federal dollar each year for education, the Federal commitment to education. The Department of Defense, 7.9 percent. Health and Human Services, 14.3 percent. And you have got the Department of Veterans' Affairs, Labor, the Department of the Interior, NASA, other departments and agencies of the Government, Department of Energy, all contributing some portion of their budget to education. So that for fiscal year 1990, according to this information, there was a total of $50.5 billion spent by the Federal Government for education programs and purposes, and only 44 percent of that was spent by the Department of Education.

So another thing to keep in mind as we look at this budget and try to determine whether or not it is too much or not enough, it is important to keep that perspective.

Mr. Chairman, in your absence I simply reconvened the hearing and pointed out that you were on your way to vote again, and we were doing this shuttle service, which is kind of interesting. I imagine the reporter is going crazy. But other than that, everything is going fine. So I yield the floor to the chairman.

Senator **Harkin**. I recognize Senator Bumpers.

Senator **Cochran**. I think you ought to.

Senator **Harkin**. Well, I do not know if we ought to, but I guess under the rules I have got to.

## COMPENSATION PAY FOR TEACHERS IN VIOLENT SCHOOL DISTRICTS

Senator **BUMPERS**. Mr. Secretary, let me pursue a little bit more my line of questioning about the poor school districts in the country. I noticed that your overall proposal covers combat pay for teachers in violent school districts. Is there some provision in here to provide additional compensation for teachers who teach in the inner cities where violence has been fairly prevalent?

Secretary **ALEXANDER**. Yes, Senator.

Senator **BUMPERS**. Now, if we can do that to take into consideration, and usually the two go hand in hand, it seems to me that we ought to be able to do something for these extremely poor school districts who have no hope of educating their children without some outside help.

## CHAPTER 1 PROGRAM FOR THE DISADVANTAGED

Secretary **ALEXANDER**. Well, we can and do, Senator. I mean, there is a $6 billion chapter 1 program that over the last 2 years has increased by about 38 percent that is just for that purpose. It goes primarily to districts in your State and Senator's Cochran's and other States that have the largest number of poor children. It is terribly complex, and most people who are on the receiving end of it wish it were simpler, but they all think it helps and it is an important program.

## GOVERNORS' ACADEMIES FOR TEACHERS—STIPENDS

Senator **BUMPERS**. Well, we are going to have another vote here, Mr. Chairman. Let me just make a couple of quick observations. Do these Governors Academies, where teachers will spend 2 or 3 weeks, provide a stipend to the teachers who participate?

Secretary **ALEXANDER**. Well, they certainly could, Senator. At the University of Tennessee, for example, we are having one next summer in science and math, and Martin Marietta Corp. is giving $1 million for the stipends alone. So there will be Martin Marietta fellowships at the academy.

Senator **BUMPERS**. Well, are you suggesting that we depend on the private sector for stipends in these schools?

Secretary **ALEXANDER**. I think that would be a good idea. I think this—my suggestion, we have had some experience with this, is first that the teachers will come even without the stipends. They are so excited by these opportunities for professional development that they are eager to come, and there will be great competition for them. Second, I think this is the kind of thing that local businesses would be glad to do, and could do, and it would be better than some of the ways they are spending their money now to support education.

Senator **BUMPERS**. Mr. Secretary, it seems to me that if we do not pay stipends then we are picking teachers economically through some process of selectivity that is not necessarily in our own best interest. For example, if a woman has a couple of children and she is used to working in the summertime to try to keep bread on the table, if you do not pay her a stipend—she may be a wonderful candidate for one of these, but she simply could not go.

Secretary **Alexander**. Well, that is a good point. On the other hand, the schools are State and local responsibility, and I think if the Federal Government were to provide some of the support, that I think that we might—I would rather take the money we have got and have five such academies in Arkansas in each of the five core subjects, and if you want to put one in humanities, and then see if Bill Clinton and the State might not match, see if the University of Arkansas might not get involved, see what happens. If then stipends are not available, you could consider that the next year. That gets the Federal Government in the business of paying teachers salaries, and that is a pretty big step.

### VOLUNTARY BASIS FOR NATIONAL ACHIEVEMENT TESTS

Senator **Bumpers**. Why do you want to make these national tests voluntary? Why not make them mandatory?

Secretary **Alexander**. If this were Belgium or Holland or England, smaller countries more used to centralization, that might go down all right. This is such a big, rowdy, diverse country that that runs against our grain. Second, I think if the people of Arkansas or Iowa were to adopt this test themselves they would pay more attention to it, it would mean more to them. It would be their own standard, their own goals, and they would work harder to achieve it.

Senator **Bumpers**. Do you not think there is a tremendous incentive for the child to apply himself more diligently if he knows he has to take a test at the end of his school career.

Secretary **Alexander**. Well, I am not absolutely—and maybe I am not being precise. I believe a State or a school district ought to require the test. I just do not——

Senator **Bumpers**. You are just simply saying the Federal Government ought not to mandate it?

Secretary **Alexander**. I just do not think we in Washington should tell Arkansas it must do it. I think we should say to Arkansas and Iowa we think you should. We have developed it in cooperation with the Governors, and you ought to either adopt this for your State or something equally good, but we respect your State and your own right to make that decision.

Senator **Harkin**. Can I interject there?

Senator **Bumpers**. Yes.

Senator **Harkin**. Would you approve of some kind of incentives if they were to do that, if they were to adopt it?

Secretary **Alexander**. Well, perhaps so. I think the political process will provide the incentive. You know, I think the candidate for Governor of Iowa will say, well, they are doing it in Michigan, why do we not do it here? And do we not care about what our fourth graders know? I think it would be better to spend our money making sure the test is developed properly, it may be expensive. I do not object to incentives.

### CHOICE PROPOSALS IN AMERICA 2000

Senator **Bumpers**. Last question, Mr. Secretary. This voucher program is of some concern to me. I think it would be wonderful if every parent could send his or her child wherever he wants him or her to go. Naturally parents want nothing but the best for their children. But as you know, we have debated and considered this whole voucher system a long time. No. 1, we may have a constitutional problem with it.

Secretary **Alexander**. May have.

Senator **Bumpers**. No. 2, I fear that what we are going to do is wind up with a few affluent school districts, and the poor school districts are going to be left for the leavings. If the better school districts are going to set the criteria for accepting children with vouchers, they are going to get the best, and those who could use that education equally well are going to be left in the poor school districts. And I am just wondering if we are sliding toward two kinds of education in this country, with the best education going to those who can get into the better schools.

### MERIT SCHOOLS

And in that same connection, Mr. Secretary, I am not sure how those merit schools are going to work, but if the competition for all of these schools of excellence is based on the best grant application, you are likely to wind up with the most affluent schools getting them, and leaving the poorer school districts still poorer. Is that a legitimate concern or not?

Secretary **Alexander**. Of course it is. Now, we have tried to meet that in terms of the merit schools. That is being redrafted to pick up some of the incentive schools idea, some of which have been spoken to very well by Al Shanker, who is head of the American Federation of Teachers, a very good thinker. His thinking on that is that rewards for schools that do the best job of moving the children along toward the national goals in English, math, science, history, and geography is a good idea. He wants a reward at the end. So if you take a bunch of children who are poorly educated and you move them more rapidly toward the goals, then you get more reward than if you take a bunch of children who arrived well fed and smart and you do not do much with them. So that is how we seek to meet that.

### CHOICE PROPOSALS

And, of course, on the idea of giving parents more choice, it is interesting that it always seems to come up, the concern is that it might hurt the less advantaged, when, in fact, those who propose it think the whole purpose of it is to help the disadvantaged. The people who have the choices of schools today are the people with money. They move to the part of town with the so-called best schools, or they send their children to a private school. They have a variety of choices.

The people who cannot do that are the people with less money, and they are usually—they have fewer places they can live, and quite often they are stuck in a neighborhood that somehow ends up with the worst school. And so the idea is that they would have more choices. Even in a smaller town like in our States, there might be four elementary schools. One might be the wrong side of the tracks, or the other side of the track, and there might be some parents in that school that think it is a poor school and they may want out. The only way they could get out, since they cannot afford to move, is to take their child to another school. That might cause the community to try to improve that school enough, which would benefit all the children.

Senator BUMPERS. Assuming they have the resources with which to do it.

Secretary ALEXANDER. Yes; but where it has been tried that has not been a problem. In Minnesota, which is an example, or in Memphis, which is an example, they have got a lot of optional schools there, and the people who argue most eloquently for them are many people who are very poor and who see a chance to have more choices for their children as a way for their children to get out of poverty, choices that better-off people have.

Senator BUMPERS. Mr. Secretary, it seems to me, to summarize this whole program, your problem is balancing rewards for excellence and equal access to quality education.

Secretary ALEXANDER. That is a good summary, Senator. I would agree.

Senator HARKIN. Mr. Secretary, I would just say, Senator Bumpers, that we have had the choice thing in Iowa here now for a couple of years, and we did a little survey. It was only utilized by three-tenths of 1 percent of the people, and they found out that the vast majority of those that utilized it did it for reasons other than education, for some other personal reasons of convenience or whatever. Of course our educational situation in Iowa is so superlative to any other State that, you know, that just goes without saying.

Secretary ALEXANDER. It is a good one.

### DIRECT FEDERAL FUNDING OF STUDENT LOANS OPTION

Senator HARKIN. Two other things, Mr. Secretary, before I go. On the default, I need to talk to you some more about the default, but instead of subsidizing banks and guaranty agencies and secondary markets, why do we not just go back to the old tried and true method that I had when I went to college, loan it directly to the student and make the school somewhat responsible and accountable for it, and that way we can go after those that default on it. I just throw that out, and I am willing to work with you on that.

### AUTHORIZING LEGISLATION REQUIRED BY AMERICA 2000

The last thing was, again we are back to money; $690 million was the new money for the new America 2000; $650 million of that requires new authorization. While we can bend a little bit around here, I do not know that we can bend that much around the lack of authorization. I do not think that we are going to get these bills passed in time for us to mark up by July, which is when I intend to mark up this bill and get it out of here. So I am wondering if you would be willing to present to the subcommittee before we mark up a new budget based on current law? You do not have to answer that now, but please think about that, because we are simply not going to be able to do it. The $40 million that does not require new authorization, of course, we can handle. But that is just a small part of that.

Secretary **Alexander**. Well, that is true, Senator. The answer, of course, if that is what we need to do, we will do that. But one encouraging thing, I am a little too new to know how encouraging, is that Senator Kennedy held up S. 2, which is sort of the Democrat education bill, until the end of the month, to give us a chance to get our authorization legislation up. He has indicated a willingness to work with us, and he sees some merit in some of the ideas. And so it is possible that in June we may make more progress toward an authorization bill than one might have thought. And so maybe the thing to do would be for us to talk again in June, and see where we are, and then we will present to you whatever is most helpful to you in the appropriations process.

Senator **Harkin**. I appreciate that, because you know you have got the Senate, then you have got the House, then you have got to go to the conference committee, and——

Secretary **Alexander**. That is true.

Senator **Harkin** [continuing]. Of course when it gets out on the floor everyone is going to have a lot of ideas, every Senator, about how to change it and modify it, and everything else. So it may be a long process, and we have to get our figures in line here. So perhaps by June we will need to get together again.

### STUDENT LOAN DEFAULTS

On the default thing, though, I look forward to working with you on it.

Secretary **Alexander**. Thank you.

Senator **Harkin**. It is unacceptable, like you say, and we have got to do something drastic. I mean, no more—we have got all this stuff and it has not done a thing. So some new drastic thing is going to have to happen to cut that down.

Secretary **Alexander**. Well, perhaps we could schedule just a meeting with you to start with, maybe in a month, something like that?

Senator **Harkin**. Sure. Be glad to do it.

Secretary **Alexander**. And I would like for Mike Farrell to have a chance to meet you, the manager of this program, and give you a little report. I would like for Ted Sanders to have a chance to let you know the work that has been done. And then we could go from there.

### PREPARED STATEMENT OF JAMES B. THOMAS, JR., INSPECTOR GENERAL

Senator **Harkin**. I appreciate it. We will do that next month, and we will work out a time. I was supposed to have had the inspector general up here after you, and I am sorry we have run out of time. We will just take the inspector general's statement and put it in the record. Perhaps if we have some questions for the inspector general, if necessary we may schedule another hearing just with the inspector general later on.

Secretary **Alexander**. He is here.

Senator **Harkin**. I appreciate that, and I am sorry about all the votes. Mr. Secretary, you have been kind with your time, and I appreciate it very much.

Secretary **Alexander**. Thanks, Mr. Chairman.

[The statement follows:]

### Statement of James B. Thomas, Jr., Inspector General

Mr. Chairman and members of the committee, thank you for the opportunity to discuss our fiscal year 1992 budget request for salaries and expenses for the Office of the Inspector General.

The Office of the Inspector General (OIG) was established to promote economy and efficiency and to detect fraud, waste and abuse in Federal education activities. We have the authority to inquire into all programs and administrative activities of the Department and related activities of all parties performing under contracts, grants or other agreements with the Department. These inquiries, made by staff both in headquarters and in the regions, or by contracted auditors, may be through audits, investigations, inspections, or other appropriate measures.

#### FISCAL YEAR 1992 REQUEST

For 1992, we are requesting a budget of $28.5 million, an increase of $3.7 million above the 1991 appropriation, and an employment level of 367 full-time equivalents (FTE), an increase of 7 FTE above our 1991 authorized level.

Approximately $2.6 million, or 70 percent, of the $3.7 million total increase is to support additional salary and benefit costs. Of this amount, $1.9 million is for annualization of the 1991 pay raises, the proposed 1992 pay raise of 4.2 percent, within-grade and merit pay increases, career ladder promotions, one additional paid day in 1992, and increased retirement costs.

Also included in the increase for salaries and benefits is $364,000 to support 7 more FTE to perform audits of the Department's financial statements. Audited financial statements for certain Department programs are required by the Chief Financial Officers Act of 1990. The financial statements of college housing and academic facilities loans programs for fiscal year 1991 will be audited in 1992, and preparatory work will be done for the 1993 audit of the financial statements of the Guaranteed Student Loan programs. This work will be supplemented by audits performed by independent auditors under contract to the OIG.

The balance of the increase for salaries and benefits—$337,000—is for administratively controlled overtime for investigators and auditors whose duties and responsibilities require them to work beyond regular duty hours. In such situations, the hours of duty cannot be controlled through administrative methods such as hiring additional personnel, rescheduling the hours of duty, or granting compensatory time to offset overtime hours required.

The remaining $1.1 million of the total OIG increase is to assist in supporting contract activities. Specifically, these funds will be used to contract with independent public accountants to assist us with audits of the Department's financial statements, to contract with a statistician to assist us with sampling and other statistical techniques and projections, and to support increased common support expenses shared with other components within the Department.

#### FISCAL YEAR 1992 PRIORITIES

Our first and highest priority continues to be in the postsecondary student financial aid (SFA) area, which we have identified as the most vulnerable to fraud and abuse. Therefore, we are concentrating the majority of our audit and investigative efforts on identifying causes of SFA problems and formulating potential solutions, and auditing and investigating those alleged to be misusing the SFA programs.

Our second priority is to provide an adequate level of audit coverage for the Department's contracts, and financial accounting and ADP systems, and audits of the Department's financial statements, the latter of which is required by the Chief Financial Officers Act of 1990. In addition, we plan to provide an adequate level of audit coverage for education program areas that award large grants.

Our third priority is oversight of audits performed by non-Federal auditors. We review these audits to ensure that work performed by non-Federal auditors is done in accordance with the appropriate standards. Oversight activities include providing technical assistance to program offices, performing desk reviews of audit reports, performing quality control reviews of auditors' workpapers on a sample basis, and providing assistance to program offices in handling and resolving issues noted in these reports. The Department relies on non-Federal audits as a significant part of its program monitoring effort, especially for student financial assistance programs.

Our efforts during the first five months of fiscal year 1991 continue to yield significant results for the Department. I feel confident that—together with the rest of the

Department—we will continue to serve the interests of the American people and the educational community as we work to assure the effectiveness and integrity of Federal education operations and programs.

Mr. Chairman and members of the Committee, this concludes my statement. My colleagues and I will be happy to answer any questions.

---

### BIOGRAPHICAL SKETCH OF JAMES B. THOMAS, JR.

Position: Inspector General, U.S. Department of Education.

Birthplace and date: Tallahassee, Florida, March 16, 1935.

Education: B.S., Business Administration, Florida State University—1957; Graduate Study, Florida State University—1957-1960; Federal Executive Institute, Charlottesville, VA—1973; Graduate Study, Southeastern University—1979.

#### EXPERIENCE

July 1980-Present: Inspector General, U.S. Department of Education (Deputy Inspector General from January-March 1981).

October 1977-July 1980: Director, Bureau of Accounts, Interstate Commerce Commission.

September 1975-October 1977: Inspector General, U.S. Department of Housing and Urban Development.

1972-1975: Assistant Director, Bureau of Accounts, Interstate Commerce Commission.

1960-1971: Trainee through Assistant Director, Audit Operations Division, U.S. Department of Housing and Urban Development.

1959-1960: Senior Auditor, Office of the State Auditor, Tallahassee, Florida.

1959: Auditor, J.D.A. Holley & Co., CPA Firm, Tallahassee, Florida.

1958: Special Auditor, Office of the State Comptroller, Jacksonville, Florida.

Honors and awards: Distinguished Leadership Award, Association of Government Accountants, 1986.

### QUESTIONS SUBMITTED BY THE SUBCOMMITTEE

Senator HARKIN. Thank you very much.

There will be some additional questions which will be submitted for your response in the record.

[The following questions were not asked at the hearing, but were submitted to the Institute for response subsequent to the hearing:]

# QUESTIONS SUBMITTED BY THE SUBCOMMITTEE

## AMERICA 2000 AND NATIONAL EDUCATION GOALS

### SCHOOL READINESS BY THE YEAR 2000

Question: I want to follow up with you on something we discussed briefly at your confirmation hearing and last week at the briefing on the President's new education plan, AMERICA 2000. We talked then about the importance of nutrition, health and social support services. We have a number of Federal programs to help us meet these goals, such as Head Start, Childhood Immunizations, Maternal and Child Health, and the Women and Infant Care program (WIC), and they are all underfunded in the President's budget. Strategy 4 of AMERICA 2000 addresses this issue to some degree, but it talks about "better coordination of existing Federal programs," reducing "Federal red tape," "affording maximum flexibility (to States) to design and implement" programs. It doesn't talk about additional spending, and it sort of makes me want to ask "where's the beef?"

The first of President Bush's six education goals for the year 2000 is that all children will begin school ready to learn by the year 2000. Are we going to make it?

Answer: Let's be clear that the Department of Education is something of a junior partner in the school readiness effort. The programs that you mention -- Head Start, Immunizations, WIC, etc. -- are not under my jurisdiction. However, I will do everything I can to work with Secretary Sullivan, Secretary Madigan, and others who administer these programs to see that we reach our goal.

With regard to programs in the Department of Education, our 1992 budget request includes $60 million (a 21 percent increase) for Even Start, a program devoted to helping low-income preschoolers and their parents make successful connections to schools. Because Even Start becomes a State formula program when the appropriation reaches $50 million, the request will ensure that, for the first time, Even Start projects operate in urban and rural communities nationwide. Chapter 1 Grants to LEAs and Migrant Education programs also support early intervention programs. To help those programs address needs for early intervention services, the Department recently commissioned four Chapter 1 studies of disadvantaged children in child care and preschool settings and early elementary grades.

### DROPOUT PREVENTION DEMONSTRATIONS

Question: Mr. Secretary, as you know, increasing the high school completion rate to 90 percent is the second national education goal. According to your budget justification, the "Dropout Prevention Demonstration Program" is the Department's program that most directly addresses this goal. Why then does the budget propose to cut the program by about 15 percent of $4.8 million?

Answer: For 1991, $34.1 million was appropriated for Dropout Prevention Demonstrations. For 1992, the Department is requesting $29.2 million, a decrease of $4.8 million because, by statute, the

Federal Government is required to pay 90 percent of project costs in the first year but only 75 percent in the second year. These funds will be used to provide the second of four planned years of funding for local projects begun in 1991 and the second year of the mandated program evaluation.

Question: While the matching requirements do go down in the second year for existing contracts, why didn't you use the $4.8 million for new contracts instead of cutting the program?

Answer: I believe that we should conduct a single round of Dropout Prevention demonstrations, over the next four years, carefully evaluating their outcomes, before initiating new local projects. If, after this round of demonstrations, we need additional information on what works in cutting the dropout rate, we might then fund some new demonstrations.

The Dropout Prevention Demonstrations program should be viewed not as a service delivery activity, but as a true demonstration program. The purpose should be to expand national knowledge about effective means of tackling the problem. We can meet that objective within the requested budget.

## CAN WE MEET THE NATIONAL EDUCATION GOALS?

Question: Last summer a Gallup Poll found that while there was strong support for the goals, at least half of those polled felt it was unlikely that we will reach the goals by the year 2000. For example, 19 percent of those polled thought schools would be violence and drug free by the year 2000; 45 percent said that we could have a high school graduation rate of 90; 47 percent felt we could reach minimum competencey levels for grades four, eight, and twelve; and less than one-third felt that we could lead the world in math and science by the year 2000. Mr. Secretary, do you believe we can reach these goals by the year 2000?

Answer: The goals are all ambitious. Some, like literacy for all adults, and leading the whole world in math and science, are very challenging. But each is a worthy national objective, and we should not rest until all are achieved. The AMERICA 2000 strategy describes tools that will help achieve them.

## PUBLIC SUPPORT FOR PARENTAL CHOICE

Question: Mr. Secretary, as you know, the Department's budget proposes a $200 million education certificate program to reward States and school districts that provide parents with a choice between public and non-public schooling. This proposal was again highlighted last week in the discussions of AMERICA 2000.

Under the proposal, recipient agencies would receive up to the State's average per pupil expenditure for education times the number of children taking part in the program, and the funds could be used for anything that would enhance educational services.

According to the Congressional Research Service, there are 35 States that offer some choice to parents, but in almost all cases it is limited to choice within the public school sector. Iowa, for example, has such a program.

Congress, supported by the public schools across the country, has refused in the past to approve such proposals as they are seen to only further aggravate conditions in the public schools that are weak. What makes you think Congress will approve this proposal?

Answer: There is no proposal to provide Federal funds for educational certificates. Funds for the Assistance for Parental Choice program, which is proposed for $200 million in the "AMERICA 2000 Excellence in Education Act," would go only to public school districts. Payments would be made to local educational agencies that are already implementing programs in which parents are permitted, and given sufficient financial incentives, to select among a variety of public and private educational programs. The school district would be able to use funds from the program to provide additional educational services to their students.

We have been finding, and I think the Congress will find this as well, that educational choice programs are becoming increasingly popular with the public. For example:

- The 1990 Gallup Poll on education found that support for public school choice has increased to 72 percent of minorities and 62 percent of the general public.

- Last year, seven States -- Wisconsin, Washington, Vermont, Utah, Idaho, Colorado, and Kentucky -- passed measures permitting greater parental choice, joining five other States -- Minnesota, Arkansas, Iowa, Nebraska, and Ohio -- that had already enacted laws allowing parents to choose schools across district lines.

- In March 1991, Massachusetts enacted a law authorizing choice of schools across district lines.

- In May 1991, an NBC/*Wall Street Journal* poll showed that 56 percent of the respondents favor "giving parents education tax credits or vouchers to pay for their children's tuition at the public or private schools of their choice."

- In May 1991, the Gallup Poll found that 51 percent favor "a program which would allow parents to send their children to the public, parochial, or private school of their choice and use State and local tax dollars to pay for all or part of it."

Public support is present for choice programs that include private as well as public options. I believe the Congress will recognize this and enact this type of legislation.

### EFFECT OF CHOICE ON PUBLIC SCHOOL SYSTEMS

Question: How do you address the repeated concern that such a proposal will only serve to weaken the public school system?

Answer: Parental choice is more likely to strengthen than to weaken public school systems, because they will be driven by competition to be the best that they can be. The success of a school district's choice program will not be judged by the number of children who opt for private schools. Under a good choice plan, parents will choose the educational setting -- public or private -- that best meets the needs of their children.

Question: Only Minnesota has a choice program between public and private schools, and that is limited to high school juniors and seniors who can benefit from taking college courses. What makes you think many States or local educational agencies would ever adopt such programs?

Answer: It is already happening. In Vermont, where not every school district has a public high school, State law permits local boards of education to pay tuition for students to attend secondary public or private, nonsectarian schools outside the district. The State of Washington funds private clinics for students with special needs, and a number of other States have arrangements for "tuitioning" or contracting out educational services to private schools in certain circumstances. In Wisconsin, State tuition assistance provides $2,500 per child for about 300 low-income children in Milwaukee who have made the choice to participate in the parental choice program. Epsom, New Hampshire, has just begun a property tax tuition plan, under which property owners may receive abatements of up to $1,000 from town property taxes to send children to private schools. And in Chicago, 27 low-income parents have sued the State to obtain State-financed tuition vouchers to send their children to private schools.

## ASSISTANCE FOR PARENTAL CHOICE PROGRAM

Question: Under your certificate proposal, recipient agencies could spend an amount up to their State average per pupil expenditure on each participating student. According to Department of Education projections, this would be an average of $5,140 per pupil for the current (1990-91) school year. Why is it appropriate to allow the use of almost 6 times the Federal funds per pupil for this program as for the Chapter 1 program for disadvantaged pupils, where we spend about $865 per pupil?

Answer: There is no proposal for a certificate program. Our Assistance for Parental Choice proposal places no limits whatsoever on how much a recipient can spend per pupil. Funds would be allocated by formula with a cap related to average per pupil expenditure, but that allocation has no bearing on the way districts choose to spend their money.

Question: In some cases, might your proposed educational certificates simply replace the private school tuition payments that would otherwise be made by parents?

Answer: To receive a grant from the Assistance for Parental Choice program, a school district would have in place a choice program. The district would be authorized to use program funds for any educational services provided to its students and for parental involvement activities, so long as those services and activities are in addition to services and activities that would otherwise be provided from State or local funds. Thus, funds under this program could not supplant State or local funds in districts that have adopted choice programs.

Question: Will your proposal contain any limits on the participating pupils -- for instance, that only poor or disadvantaged pupils be eligible for certificate assistance? If not, what would prevent local educational agencies from using the program to pay tuition at elite private schools on behalf of children from affluent families?

Answer: Funds received by an eligible LEA under this proposal would not go to "participating pupils," but to school districts for educational services. Except as provided in the "supplement, not supplant" provision, there would be no restrictions on who could benefit from the educational services that an LEA would provide with funds from this program. However, program funds would be allocated on the basis of Chapter 1 shares. Affluent children would have only a very limited opportunity to benefit.

## FINANCIAL DISPARITIES AMONG SCHOOL DISTRICTS

Question: Renewed concern has recently developed over the large inequalities in education revenues and expenditures per pupil among different localities of most States. Are cross-district school choice policies reasonable so long as these finance disparities continue to exist?

Answer: Inequality in educational expenditures is one of many reasons educational quality varies among school districts and among schools within districts. But the opportunity to pursue academic excellence must be available to all children, no matter what their financial circumstances. As President Bush has said: "...let's be clear about who can benefit the most from greater freedom of choice. It's poor families who will benefit most from a healthy competition in our schools." One of the main motivating forces behind choice, after all, is to stimulate competition among all kinds of schools: competition over results, not just resources.

## CHOICE AND PRIVATE SCHOOLS

Question: Is the primary purpose of this proposal to give an indirect but large amount of Federal support to private schools? If so, why not attempt to do this more directly, such as through tuition tax credits, with aid limited to low and moderate income families?

Answer: The purpose of this program is not at all to give Federal support to private schools. The purpose is to give Federal support to public school systems that are willing to take a chance by adopting a parental choice program and letting marketplace competition spur accountability for quality education.

Question: Is significant local government monitoring of participating schools likely to be constitutional, at least where the schools are religiously affiliated? If not, how will appropriate use of public funds be assured?

Answer: In the case of the Assistance for Parental Choice program, the Federal funds will go only to public local educational agencies, so this problem should not arise.

Question: How could a prohibition against use of Federal funds for religious instruction be enforced?

Answer: This would not be a new problem with the programs proposed by AMERICA 2000. Current Department regulations (34 CFR Part 75.532 and Part 76.532) prohibit all grantees from using Federal funds for religious instruction. The prohibition is enforced by the usual monitoring and audit procedures.

## PARENTAL CHOICE IN CHAPTER 1

Question: The Chapter 1 program, as you know, is very popular and now only serves 40 percent of the eligible children. Your proposal, I understand, would permit children to take their Chapter 1 funds with them to private schools. Your proposal suggests that private schools would be "accountable to a public authority." How would that be accomplished? Would they then have the same responsibility to serve the handicapped as do public schools?

Answer: Schools can be "accountable" in a variety of ways, such as through accreditation procedures or in simply evaluating results from a common core of tests.

The AMERICA 2000 Excellence in Education Act would amend Chapter 1 to ensure that Chapter 1 services follow a child who enrolls in a new school or district under a local choice program. The child's local school district would arrange for the services to follow the child. If the district decides that that approach is not feasible or efficient, it would provide the child's parents with Federal dollars for use in purchasing compensatory education services. If the parents pay these funds to a private school, the private school would become a "recipient" of Federal funds, as defined by the applicable civil rights regulations implementing Title VI of the Civil Rights Act of 1964 (nondiscrimination on the basis of race), Title IX of the Education Amendments of 1972 (nondiscrimination on the basis of sex), and Section 504 of the Rehabilitation Act (nondiscrimination on the basis of handicap). The private school would be required to comply with all applicable civil rights requirements.

The obligations for private school recipients under the Title VI statute and regulations are identical to those for public school recipients. There are different obligations for private school recipients under Section 504. In addition, there is an exemption to coverage under Title IX that may apply to some private school recipients.

Title IX does not apply in the area of admissions to public or private elementary and secondary schools (with the exception of public or private vocational schools). Additionally, Title IX would not apply to a private school controlled by a religious organization, to the extent that the application of the Title IX requirements would not be consistent with the religious tenets of the organization.

The Section 504 regulations regarding elementary and secondary education distinguish between public and private schools. The private school is required to admit a child with a disability only if it can provide that child with an appropriate education -- as defined in the Section 504 regulations -- with minor adjustments to its program. Once a private school admits a child, it must provide the child with an appropriate education. If the private school does have a special education program, it must operate the program in accordance with Section 504 requirements relating to evaluation, placement, services, and procedural safeguards. However, a private school -- unlike a public school -- can charge parents of a child with disabilities more than parents of nondisabled children for the provision of an appropriate education, to the extent that the additional charge is justified by a substantial increase in cost to the school.

## ASSISTANCE FOR PARENTAL CHOICE PROGRAM

Question: What sorts of private schools will be eligible to participate in your proposed certificate program?

Answer: There is no certificate program being proposed. Under the Assistance for Parental Choice program, funds would be made available to school districts that are implementing choice programs in which parents are permitted, and given sufficient financial incentives, to select among a variety of public and private educational programs.

Question: Will religiously affiliated schools be included? If so, is the proposal likely to be constitutional?

Answer: Under this program, grants will be awarded not to help a school district implement a choice program or directly to a private school, but rather to school districts that already have choice programs in effect. A school district receiving those funds would use them for educational services of the district's choosing. Choice can apply to all schools except where the courts find a Constitutional bar. It should be noted that the Supreme Court has found certain types of aid to parents choosing private schools to be constitutionally permissable, as part of a neutral statute, as in the case of the Minnesota tax deduction for certain educational costs, including tuition (Mueller v. Allen, 1983).

Question: Will your proposal contain any provisions to prevent educational certificate programs from resulting in segregation of pupils by race, income, or achievement level?

Answer: There is no need for such a provision. There is no proposal to provide Federal funds for educational certificates. This proposal would provide funds to school districts that operate educational choice programs. The funds would be used by the recipients to support their educational programs. The Department of Education cannot give financial assistance to a school district that is in violation of civil rights laws. Further, choice is much more likely to increase, rather than decrease, equity for children from low-income families. Higher-income families already have choice -- choice to send their children to private schools or choice to move to a neighborhood with a responsive public school system. When States and localities adopt parental choice programs, they are extending this right of choice to families that could otherwise not afford it.

## CENTER FOR CHOICE IN EDUCATION

Question: States and local educational agencies are already free to establish public school choice programs if they wish, and several have done so. They may also include private schools in these programs, to the extent that they are not constrained by State or Federal constitutions, yet extremely few have done so. The U.S. Department of Education has set up a school choice center to provide technical assistance. Why is there need for further Federal support for State and local school choice policies?

Answer: The President believes that educational choice is one of the most important tools a community can embrace in pursuit of educational excellence, and the Center for Choice in Education provides a valuable service as a clearinghouse for information and technical assistance, including a toll-free Choice Hotline (1-800-442-PICK). In addition to informational services, the President also believes that local implementation of programs that enhance student and parental choice deserves national support and encouragement. That support and encouragement, in the form of financial assistance, would be provided by the proposed Assistance for Parental Choice program.

## NATIONAL TESTING STANDARDS

Question: Mr. Secretary, as you know, there are a number of groups that are looking at the question of whether or not we should have national testing standards. These groups include: the National Assessment Governing Board, the President's Education Policy Advisory Committee, the National Education Goals Panel, the Labor Department's Secretary's Committee on Achieving Necessary Skills, the Learning Research Development Center, the National Center for Education and the Economy, and Educate America. In the AMERICA 2000 initiative announced last week, it was stated that we need national standards and national exams in at least five core subjects: English, mathematics, science, U.S. history, and geography. Since these national exams are proposed to be voluntary, how do you expect to have a fair and comprehensive assessment?

Answer: The proposals for the shape and configuration of a national examination system vary from group to group, but they all seek to provide parents and schools with a better understanding of what students can do. AMERICA 2000 envisions a system in which States or local school districts might use different examinations, but utilize an "anchor" examination to link those examinations and provide the basis for compiling comparable estimates across States and the Nation. Current assessment and testing practices have been criticized as too limited, unfair, and piecemeal to allow for valid comparisons across districts and States. A new, more varied and comprehensive system is needed.

The voluntary nature of the system raises issues about aggregating the data, if certain schools, districts, and States do not participate. Initial implementation of the system will focus on the ability to link and compare results across those jurisdictions that do voluntarily choose to use the World Class Standards and the American Achievement Tests. The experience with the trial State assessment program of the National Assessment of Educational Progress, in which 40 States and territories participated in 1990 with more signed on for 1992, is an indication that if a good, voluntary national examination system were offered, many schools, districts, and States would choose to participate.

## LAKE WOBEGON EFFECT

Question: You are familiar, I'm sure, with what is being referred to in education circles as the "Lake Wobegon effect." It describes the tendency by every State to report their students' performance as "above average". The public in turn gets a falsely rosey picture of the status of education in their State. Last year, I included in the Senate report accompanying the appropriations bill a request for the Department to study this problem and take steps to address it. What is the Department doing?

Answer: The report language expresses concern that two factors are leading to inaccurate reporting of true student performance: the use of "old" norms by commercial test publishers, and the inflation of test results through lax test security and cheating.

The Department continues to address these issues in a variety of ways. The National Research and Development Center for Research on Evaluation, Standards, and Student Testing (CRESST) has prepared two reports on this issue, "Inflated Test Score Gains: Is it Old Norms or Teaching the Test?" and "Quality of Standard Tests: Final Report." In addition, the Office of Educational Research and Improvement prepared through ERIC a handbook entitled, "Understanding Achievement Tests: A Guide For School Adminstrators." This handbook is designed to help school administrators deal with the tasks of selecting and using test results to accurately gauge and report educational achievement and progress.

With respect to old norms, the CRESST reports concluded that "...it seems clear that the use of old norms is one of the major factors that contributes to the abundance of above average scores." This is the conclusion referred to in the report language.

With respect to lax test security, the reports state that lax test security and cheating were not important sources of inflated scores. The reports did conclude, however, that teaching to the test is a practice that can affect the validity of local scores and can distort the meaning of standardized test results.

With respect to both old norms and lax security, the reports suggest a number of alternatives--develop new tests each year, equating procedures, sampling procedures, performance and portfolio assessments--which might provide more accurate measures of student achievement.

The Department has also asked that this issue be addressed in the Code of Fair Testing Practices in Education. This is a professional code adopted by the American Psychological Association, American Education Research Association, and the National Council for Measurement in Education. The Office of Educational Research and Improvement is preparing a report that will provide additional details on each of these activities.

## REPORTING STUDENT PERFORMANCE

The major steps the Department is taking to provide accurate, timely reports of student performance are related to the National Education Goals. Activities surrounding the National Education Goals adopted by President Bush and the Governors in 1990 are leading to new forms of assessment and new ways of reporting results. One of the purposes of all of these new activities is to overcome the limitations of previous assessments and provide the American public with an accurate and timely report of the performance of students and schools.

In the President's recently announced education strategy, **AMERICA 2000**, President Bush describes the new **American Achievement Tests**, which will be the basis for a new system of voluntary national examinations at the fourth, eighth, and twelfth grades in each of the five core subjects, tied to the **World Class Standards**. The National Education Goals Panel, composed of six Governors, four members of the Administration, and four members of Congress, was established to report on the Nation's and the States' progress toward meeting these goals. These new testing and reporting activities are being designed to overcome the limitations--including out-dated test norms and lax test security--of existing tests and reporting systems.

A central feature of the President's bold, complex, and long-range plan to move every community in America toward the National Education Goals is timely and accurate assessment of student and school performance.

## NATIONAL EDUCATION GOALS PANEL

Question: Mr. Secretary, as you know, the Governors and the Administration established a National Education Goals Panel that has 10 members: 6 Governors and 4 Administration officials, supported by a staff of 3 people. As you know, there has been a good deal of congressional concern that while four members of Congress are considered ex officio on the panel, they are not permitted to vote. What is your view with regard to including voting congressional members on the panel?

Answer: I would welcome more active participation of congressional members of the panel. This is an issue we continue to discuss.

## IMPLEMENTING LEGISLATION TIMING

Question: Mr. Secretary, your staff has stated that the implementing legislation for your $690 million AMERICA 2000 initiative is still 4 to 6 weeks away from being ready to submit to the Congress. Other major portions of your budget--approximately $17 billion--are dependent on passage of new legislation.

It seems fairly obvious that your new proposals aren't going to be enacted by July when we hope to begin our markup, so your budget is not very meaningful to us as stated.

Would you be willing to present to this subcommittee, before we mark up, a new budget based on current law?

Answer: We are planning to submit the authorizing legislation that is required for implementing our AMERICA 2000 education strategy by the end of May. We have confidence that this legislation will move quickly through the Congress, especially in light of the authorizing committee's willingness to postpone action on their new education authorizing bill, S. 2, for enough time to allow our proposal to be considered in the same context. However, I would note that $41.5 million of our proposal does not require new legislation, since you already have authorities to appropriate funds for such items as research on world class standards and achievement tests, statistics for expansion of the new adult literacy survey, and FIRST activities for schools and teachers.

I understand that legislative action on the Higher Education and Rehabilitation Services Acts and other laws affecting the Department is not likely to be completed by Congress by this summer. Therefore, I would be willing to present a distribution of our budget based on current law to help you understand our priorities as you mark up our appropriation.

## MAKING AMERICA A NATION OF STUDENTS

Question: Mr. Secretary, the Commission on the Skills of the American Workforce, chaired by former Secretaries of Labor Brock and Marshall, recently published a very insightful report entitled "America's Choice." The study lays out the fundamental structural problems that our workers face in a changing world economy, and the need to provide a more effective school-to-work transition system for our young people. Strategy 3 of the AMERICA 2000 proposal also addresses this issue. The study points out that, by the year 2000, more than 70 percent of jobs will not require a college education. The Commissions maintains that our future workers will gravitate to these jobs without a strong general education. Mr. Secretary, what is the administration doing to prepare students for the workforce who do not want to go to college?

Answer: It is clear that improvements need to be made in the education system's capacity to equip all students with the skills needed to work in tomorrow's economy if we are to compete globally. To address this issue, we are asking that business and labor adopt a strategy to establish job-related (and industry-specific) skill standards, built around core proficiencies, and to develop "skill certificates" to accompany these standards. Such standards would be used at the State and local levels in designing quality vocational education programs that emphasize skills needed to make the transition from school to the work place.

This approach is part of the President's AMERICA 2000 strategy of creating a Nation of learners. This strategy will require that all Americans, both those with a college education and those who do not go to college, continue learning throughout life in order to gain the additional skills and competencies needed to improve economic productivity.

The Department is already supporting specific activities that would carry out this strategy. For instance, the Perkins Act requires that State vocational education plans show how vocational education programs supported by Federal funds reflect the State's labor and economic needs. Implicit in this requirement is the need to design vocational education programs that will help students make the transition from school to work. More specifically, the Department has set-aside $3.5 million in vocational education demonstration grant funds in 1991 and is requesting an additional $3.5 million in 1992 for Business and Education Standards projects that would organize and operate business-labor-education technical committees to propose national occupational competency standards that could be used in the design of vocational education programs. This activity would be carried out in close coordination with the Secretary's Commission on Achieving Necessary Skills and the National Advisory Commission on Work-Based Learning within the Department of Labor. The Department is also planning, in 1991 and 1992, to fund school-to-work-demonstration projects at $2.5 million for each year. This activity will test approaches used in vocational education programs to bridge the school-to-work gap, such as apprenticeships, cooperative education, and on-the-job training. All projects would be required to have the active cooperation and involvement of business, industry, and labor in their design and operation. A strong emphasis would also be placed on integrating academic and vocational education skills.

## PRIORITIES

Question: What will be your top priority as Secretary of Education? What should the Administration accomplish in the next two years?

Answer: My top priority is to help the President move this country towards fulfillment of the six National Education Goals adopted last year. My first step in that direction was the development of the AMERICA 2000 Education Strategy, which is a bold, complex, and long-range plan to move every community in America toward those goals.

Results of our strategy will not come quickly, but will take the rest of the decade. However, we can start quickly. In the next two years, for example, we can get the legislation enacted to provide an incentive for communities to support new American schools. We can establish New World Standards in each of the five core subject areas and develop methods to measure progress. We can establish research teams through the New American Schools Development Corporation to help communities invent and create their own new American schools. We can take these and many of the other 44 steps outlined in the AMERICA 2000 strategy during the next two years.

## SPENDING FOR ELEMENTARY-SECONDARY VERSUS POSTSECONDARY

Question: Given the reality of limited resources, and in light of recent predictions that by the year 2000 more than 70 percent of jobs will not require a college education, do you think that the amount of money the Federal Government spends on elementary and secondary education versus higher education is appropriate? Is it the proper balance?

Answer: Within the Department, although it varies slightly from one year to the next, each sector receives about the same amount of money, between 44 and 46 percent of the budget. The remaining funds go for rehabilitation, library, research, and administrative activities. Within our limited financial role in aiding the disadvantaged and improving the quality of education, I do not see the need for a dramatic shift in Federal funding from postsecondary to elementary and secondary education based on the prediction you cite about future job qualifications.

Since you raised a point about future job requirements, I should repeat a fact we included in the pamphlet on our AMERICA 2000 education strategy. We noted that about 85 percent of America's work force is already in the work force today. We already know that, even today, our employers cannot hire enough qualified workers despite the immense sums that are spend on remedial training. Thus, I would say it is too late to limit our discussion to adding Federal funds for traditional elementary and secondary education, at the expense of postsecondary education, if our only purpose is to develop employees for jobs in 2000, if that is the supposition of your question. I believe that the four pronged approach of our AMERICA 2000 education strategy--focusing on today's students, tomorrow's students, yesterday's students/today's work force, and communities where learning can happen--is the best way to prepare for the evolving world economy.

## SCHOOL FINANCE REFORM

Question: Mr. Secretary, a recent study requested by the House Committee on Education and Labor documented the alarming inequity that exists in our current public school finance system. Not only are there wide discrepancies in average per-pupil expenditures between States, there is an alarming disparity in per-student spending by school districts within States. In Texas, for example, the House report states that annual per-pupil expenditures range from $2,000 to $19,000 between property-poor districts and property-rich districts.

Certainly the four recent State Supreme Court rulings in Kentucky, New Jersey, Texas, and Montana have been a major victory for those of us who advocate public school finance reform.

Mr. Secretary, what is your view of the need for school finance reform?

Answer: In a number of States, court rulings or review by State legislatures have found it necessary to change the State/local finance system for education. The nature of the problems (and solutions) have varied between States, as do the ways in which education is financed.

When discussing school finance reform, a critical issue is whether the Federal Government should intervene to ensure equalized spending by States and school districts on elementary and secondary education. It is our position that school equalization is a complex problem which is best understood and dealt with by States.

First, there are valid reasons for some disparities in spending between districts, and States are in a much better position than the Federal Government to assess those reasons. Attempting to determine what is a "fair" spending level for rural areas versus urban areas would be very complex and difficult. For example:

- Student populations vary in their need for services. Inner-city schools may need to spend more on disadvantaged populations than suburban or small town schools because of greater proportions of disadvantaged students and accompanying needs for special services.

- Costs vary widely within States. Teacher salaries usually need to be higher in urban areas to reflect higher living costs and competition from other available jobs. Costs for heating and maintenance in southern States tend to be lower than in northern States.

## RELATIONSHIP BETWEEN SPENDING AND STUDENT ACHIEVEMENT

Second, research has consistently found no relationship between school spending and students' achievement.

- James Coleman reported this finding in his landmark school study of the effects of school inputs in 1966.

- Eric Hanushek, in a 1988 review of 187 studies of the relationship between spending and achievement scores, also reported this finding.

- Mullin and Summers reported no significant association found between funding and achievement in a study of services for disadvantaged children (1983).

This does not mean that funding has no impact at all. Increasing funding may affect outcomes in some cases, but not in others. It does mean that increasing funding does not automatically bring improved student outcomes.

Third, when spending reform is needed, experts have concluded that school spending reforms must be linked to education reform, as in the State of Kentucky. Kentucky has started on a major school reform program that integrates changes in school finance and governance with curriculum reform.

Finally, we believe that the best way for the Federal Government to help disadvantaged children and children with special needs is to provide funds that are targeted on them directly -- as in the Chapter 1, Education of Children with Disabilities, and

Bilingual Education programs. The current Federal approach of targeting needy children contrasts with equalization proposals in which many of the beneficiaries would be middle-class children whose schools were satisfactory before the equalization process began. Not every problem must have a Federal solution. We recommend that equalization of school finance be recognized as a State responsibility. The most appropriate Federal role is to provide targeted support for children with special needs.

## AWARDS FOR MATHEMATICS AND SCIENCE ACHIEVEMENT

Question: What formula will be used to allocate funds among the States for the mathematics and science achievement awards in the proposed Educational Excellence Act?

Answer: Under the "AMERICA 2000 Excellence in Education Act," mathematics and science achievement would be a component of the proposed Merit Schools program. Merit Schools funds would be allocated to States based on State shares of funding under the Chapter 1 LEA Grants program. States would be required to use at least 20 percent of their Merit Schools funds for awards to schools that demonstrate outstanding progress in mathematics and science.

Question: Will this formula be sensitive to the number of economically or educationally disadvantaged students in each State?

Answer: Yes, the distribution of funds according to relative shares of Chapter 1 funds will ensure that this is the case.

Question: For what purpose may school districts spend the money they receive under the proposed mathematics and science achievement awards?

Answer: A school selected as a Merit School could use its award for any purpose, otherwise permitted by law, that furthers its educational program, including development or implementation of educational programs, purchase of computers and other materials and equipment, and bonus payments to teachers and administrators.

Question: Will the $40 million mathematics and science achievement awards proposed for the Educational Excellence Act reward districts for improvement in their average math and science scores?

Answer: The President has revised his 1992 budget request, and is no longer requesting $40 million for a separate mathematics and science achievement program. Instead, States would be required to use at least 20 percent of their Merit Schools grants for awards to schools that demonstrate outstanding progress in mathematics and science.

Question: How will the Department ensure that improvement is being experienced by all students in an award-winning school district, the high scoring students as well as low scorers, minority students as well as majority students?

Answer: Merit Schools cited for mathematics and science achievement would be selected by Governors using State criteria related to outstanding progress in student achievement in mathematics and science and Federal criteria that will be applied to the selection of all Merit Schools. Schools are competing against themselves in this proposal. A Merit School is one that has demonstrated improved performance over at least a three-year period. The Federal criteria will focus on: (1) the school's progress in increasing the number or percentage of students who meet the National Education Goal of leaving grades four, eight, and twelve having demonstrated competency in five core subjects; (2) the school's use of objective measures of educational progress; and (3) the use of an annual public "report card" that describes the school's progress in achieving the National Goals. Governors could also devise additional criteria to take into account differences in the composition of the student body of different schools and give special consideration to schools with substantial numbers or proportions of children from low-income families.

Question: The $40 million the Department is proposing for mathematics and science achievement awards amount to about 17 percent of the grants under the Eisenhower Mathematics and Science Education program. Why should this substantial amount of funding be spent on awards, rather than directed to math and science teacher training and recruitment under the Eisenhower program?

Answer: The Department is no longer proposing $40 million for a separate mathematics and science achievement program. However, the 1992 budget proposal contains an 18.3 percent increase for the Eisenhower Mathematics and Science State Grant program and a 25 percent increase for the Eisenhower National programs -- among the largest percentage increases proposed for any Department programs.

## ALTERNATIVE CERTIFICATION FOR TEACHERS AND PRINCIPALS

Question: How will the Department prevent its proposed new program of support for alternative certification for teachers and principals from undermining the standards for regular certification that have risen substantially during the past decade?

Answer: There need be and should be no sacrificing of quality or standards in alternative routes to certification for teachers or principals. Alternative routes should recognize relevant experiences and knowledge of candidates and eliminate traditional time and coursework requirements that are either unnecessary or that unnecessarily duplicate candidates' existing expertise. However, standards for alternative route candidates to receive certification should be no less rigorous than those for other teacher candidates. The Department's proposed new program would provide a one-time infusion of funds to help States establish or expand such alternative routes to certification, and the decisions about the standards those programs embody will be the responsibility of the States. Given the role of States in increasing standards for regular certification, there is no reason to believe they would not want high standards in their alternative programs.

Question: What impact does alternative teacher certification have on the viability of teacher education programs and efforts to raise their standards?

Answer: Alternative routes to teacher certification offer a unique testing ground to explore innovative and collaborative approaches to high-quality teacher education. Because most begin with relatively small numbers of recruits, they can focus more closely on quality issues rather than on mass production of new teachers. Many current alternative route programs are being used as pilot efforts to look at ways in which the overall undergraduate and/or graduate teacher education program can be improved. Because many are school-based, they have built-in mechanisms for closer work between school and higher education personnel, particularly in developing better support for teacher candidates. Creative, more effective ways to use human, financial, and material resources often evolve out of the extensive collaboration among entities such as schools, universities, the private sector, and the military that frequently distinguish alternative route programs from traditional efforts.

## MINORITY RECRUITMENT THROUGH ALTERNATIVE CERTIFICATION

Question: It has been claimed that alternative teacher certification programs are particularly effective in recruiting minorities to the teaching profession. What evidence is there for that claim? Please explain.

Answer: Early evidence indicates that alternative route programs have been more successful in recruiting minorities than have traditional programs. Statewide studies in New Jersey and Texas have shown minority recruitment figures (as high as 30 percent and 50 percent, respectively) in alternative route programs to be far in excess of regular teacher education programs. Higher minority recruitment rates have also been noted in district-based alternative route programs such as the Los Angeles Unified School District's efforts.

The explanations for this high success rate in recruiting minorities are varied. In some cases, the high rate is simply reflective of beliefs by local authorities that minority teachers are greatly needed and, therefore, non-minorities need not be actively recruited. Since many programs have evolved out of the need to address shortages of teachers in the inner city, they have worked hard to inform recruits of the realities of those schools and communities, perhaps evoking a public service response from many minorities who wish to serve as role models. Another reason for the success may be that the locally-targeted substance and school-based nature of most of these efforts are seen by minorities as relevant and responsive to the lives of affected students and community residents.

Question: Some observers have criticized alternative teacher certification programs because those who go through these programs often are recruited by urban school districts. As a result some of the most difficult teaching positions are being filled by individuals who lack sound grounding in necessary pedagogy. Is this true?

Answer: Many alternatively-prepared teachers do initially work with at-risk students. However, that these alternatively-prepared teachers "lack a sound grounding in pedagogy" is not a valid premise. The school-based and collaborative nature of many alternative route programs ensures more, not less, direct relevance to pedagogical realities, particularly when compared with many traditional programs that separate theory from practice and fail to provide context-specific strategies for success in schools.

Question: How will your proposed alternative certification program ensure that such efforts do not direct the least prepared teachers to the most demanding positions?

Answer: Our proposed program would provide one-time grants to the States for establishing or expanding alternative certification programs. States would decide where those programs would operate. As for hiring decisions, those would continue to be made as they are currently. We do not believe that persons who participate in alternative certification programs would be the least prepared of teachers.

## MERIT SCHOOLS--REWARDING SCHOOLS BASED ON PERFORMANCE

Question: What has been the experience thus far of the small number of States that have recently adopted performance grants for especially successful schools? Have the grants gone primarily to schools serving advantaged student populations, or have they provided an incentive to improvement of schools serving the disadvantaged?

Answer: States have not had a great deal of experience with programs of this sort. We know that South Carolina is implementing a reward program based on performance and that Kentucky has plans to institute such a program. The Department plans to follow these and other similar programs very closely.

Question: There has been extremely little research or State experience with programs that provide grants on the basis of performance. Why do you propose adopting such a relatively untried concept?

Answer: The Administration believes that demonstrated schoolwide progress in achieving excellence deserves reward and recognition. Further, rewards for schools in which students make significant gains in learning can spur improvements in all schools. This program will encourage all schools to seek to attain the National Education Goals, to set standards of excellence for all students, to measure their own progress in meeting those standards, and to make the results of those measurements public.

Question: How will your proposal prevent having most of the aid go to schools that have high performance primarily because they serve pupils from affluent or otherwise advantaged families?

Answer: The purpose of this program is to encourage schools to take steps toward accountability and to reward progress in student achievement, not to distribute aid to affluent schools. Each school competes against itself to gain recognition in this proposal. Schools that start at high levels of performance have less room for improvement and would be less likely to make the gains needed to qualify for a Merit School award.

## MERIT SCHOOLS--STANDARDS OF PERFORMANCE

Question: Who--the U.S. Department of Education or the States--will set the standards by which schools will be judged in awarding your proposed performance grants? If States set the standards, how will you monitor their appropriateness?

Answer: Merit Schools would be selected by Governors using a combination of State and Federal criteria. The Federal criteria will focus on: (1) the school's progress in increasing the number or percentage of students who meet the National Education Goal of leaving grades four, eight, and twelve having demonstrated competency in five core subjects; (2) the school's use of objective measures of educational progress; and (3) the use of an annual public "report card" that describes the school's progress in achieving the National Goals. Governors could also devise additional criteria that include progress on other National Goals; take into account differences in the composition of the student body of different schools; and give special consideration to schools with substantial numbers or proportions of children from low-income families. The Governor would also develop additional criteria to use in selecting Merit Schools cited for outstanding progress in student achievement in mathematics and science.

Within 60 days of the end of each fiscal year, each Governor would submit a report to the Secretary that identifies the schools chosen as Merit Schools and the amount of each award, states the reason for their selection, and includes a brief description of how schools selected in the previous year used their awards. This report would enable the Department to determine if the program is being administered properly by the States.

Question: Will standards for awarding performance grants take into account differences in the characteristics of pupils served by, and financial resources available to, different schools? If not, will the competition be fair?

Answer: In selecting Merit Schools, each Governor may choose to use State selection criteria in addition to the Federal criteria. In setting those additional criteria, the Governor would be required to take into account differences in the composition of the student body of different schools and give special consideration to schools with substantial numbers or proportions of children from low-income families.

## MERIT SCHOOLS--USE OF AWARDS BY SCHOOLS

Question: Will there be any limit on the uses to which performance grants may be used by recipient schools?

Answer: A Merit School could use its award for any activities, otherwise permitted by law, that further the educational program of the school, including development or implementation of educational programs, purchase of computers and other materials and equipment, and bonus payments to teachers and administrators.

Question: Is the provision of virtually unrestricted financial aid to religiously affiliated private schools likely to be constitutional?

Answer: Awards going to private schools would not be unrestricted. Under the proposed legislation, a Merit School could use its award for activities, otherwise permitted by law, that would further the educational program of the school. This provision would include Constitutional restrictions.

## MERIT SCHOOLS--ELIGIBILITY OF PRIVATE SCHOOLS

Question: Will private schools, including those with a religious affiliation, be eligible for your performance grant program?

Answer: A State could select as a Merit School any public or private elementary or secondary school in the State that has been nominated through procedures established by the Governor.

Question: Considering the many fewer constraints under which private schools operate, is it fair to let them compete with public schools?

Answer: Public and private schools would not be competing. In this proposal, each school that competes for a Merit School award is competing against itself--to demonstrate improved performance. Awards would be made to schools that have made progress in student achievement over at least a three-year period. In setting any State criteria for selection of schools, Governors would take into account differences in the composition of different schools and give special consideration to schools with substantial numbers or proportions of children from low-income families.

## GOVERNORS' ACADEMIES FOR SCHOOL LEADERS

Question: After six years of Federal support for Leadership in Educational Administration Development (LEAD) centers in every State, why is there any need to begin a different program supporting new approaches to training of school administrators under the proposed Educational Excellence Act?

Answer: LEAD provides inservice training for a whole range of personnel who fall within the category of administrators, including, for example, central school district personnel. The programs of the various centers vary a great deal. Although some centers emphasize leadership, others stress management, problem solving, goal setting, time management, or budgetary skills. The proposed Governors' Academies for School Leaders provide training for prospective as well as experienced school leaders, and are much more focused. They are based on the premise that the role of the school principal is central to school performance, school reform, and achievement of the National Education Goals. The Academies will focus on instructional leadership, school-based management, school reform strategies, and implementation of school-level accountability mechanisms. The 1992 request for Research includes $50,000 for a National LEADership Collaborative, which would continue the existing networking among the LEAD centers.

Question: To what extent is this new initiative based on evaluations of the LEAD program?

Answer: The proposal for Governors' Academies is not related to the current LEAD program. The LEAD program was always intended to be a six-year effort limited to providing seed money to establish training centers. Not all of those centers have focused on the kind of leadership necessary for reform at the school site. On the other hand, some of the centers will undoubtedly be potential candidates for operating the new academies.

## GOVERNORS' ACADEMIES--TRAINING APPROACHES

Question: Please describe some of the new approaches to training of school administrators you want to support under the proposed Educational Excellence Act.

Answer: For prospective school leaders, the Academies will offer recruitment, training, and, as appropriate, internships under experienced school leaders. For experienced school leaders, they will offer opportunities for professional renewal and enhancement of skills. Essential to the success of the Academies will be a requirement for each State to plan the Academy in the context of how the State will relate to the Governor's overall plan for the attainment of the National Education Goals and the reform of elementary and secondary education in the State. Thus, the design of each Academy will be based on State needs and plans rather than a Federal model.

Question: Will these approaches strengthen local school principals' abilities to administer schools operating under site-based management, as is occurring in districts in places such as Chicago, Illinois; Rochester, New York; and Miami, Florida?

Answer: Yes, each Academy will develop curricula that will focus, among other things, on school-based management and instructional leadership.

## GOVERNORS' ACADEMIES AND ALTERNATIVE CERTIFICATION PROGRAMS

Question: Will the proposed Educational Excellence Act coordinate its program supporting new approaches to training of school administrators and its program supporting State systems for alternative routes to teacher and administrator certification?

Answer: Governors will be required to plan Academies in the context of their overall plan for the attainment of the National Education Goals and the reform of elementary and secondary education in the State, including, in particular, improvement of school leadership in the State. The Alternative Certification of Teachers and Principals program would assist States interested in broadening the pool of talent from which to recruit teachers and principals. Coordination between these two programs in a State will be essential.

Question: Are these new initiatives contradictory--one promoting new training approaches and the other potentially calling for ways around that training?

Answer: On the contrary, the Alternative Certification program and the Governors' Academies for School Leaders and Teachers would be complementary. Both would encourage talented professionals and others who have demonstrated subject matter competence or leadership in fields outside of education to become teachers or principals.

## GOVERNORS' ACADEMIES FOR TEACHERS--REWARDING TEACHING EXCELLENCE

Question: How will the difficult and sensitive task of selecting meritorious teachers be handled under your proposed program of recognition and awards for excellent teachers?

Answer: Awards for excellent teachers will be a feature of the Governors' Academies for Teachers. Of the total $70 million authorized for the Academies in 1992, $7.6 million would be separately authorized for this purpose. Each Academy would use a portion of its funds to recognize and reward teachers who have demonstrated success in teaching in the core subject area that is the focus of the Academy.

Question: Please describe the characteristics of who you would select as "excellent" teachers. Is there a consensus among educators, researchers, and parents that these are the identifying characteristics of "excellent" teachers?

Answer: Each Academy will select teachers to receive awards from nominations received from local educational agencies, public and private schools, teachers, associations of teachers, parents, associations of parents and teachers, businesses, business groups, and student groups. The selections will be based on criteria developed by the Academy and approved by the Governor. The Federal Government would have no direct role in selection of teachers and would not dictate their characteristics. Selections in the States would likely reflect a variety of standards and criteria rather than one national consensus.

Question: Under the proposed program of recognition and awards for excellent teachers, will you be rewarding excellent teachers with cash awards?

Answer: Yes, the maximum award would be $5,000.

Question: Must these awards be spent on enhancing the recipients' teaching skills and subject matter knowledge, or for other educational purposes? If not, why?

Answer: The awards would be made in recognition of outstanding performance. There would be no restrictions on the recipients.

Question: Why are you proposing to create a separate, new program to recognize and reward teaching excellence when the current Christa McAuliffe program remains seriously underfunded, supporting 75 teachers a year rather than the 442 envisioned in the authorizing statute?

Answer: The two programs are quite different. A Christa McAuliffe Fellowship is awarded to a teacher to use in an educational project, such as a sabbatical for study or research. An award made by an Academy would be in recognition of outstanding performance and could be used by the teacher for any purpose he or she chooses. For 1992, the maximum award to a Christa McAuliffe fellow will be approximately $34,665, the same as the national average teacher salary. The maximum award for outstanding teachers under the Academy program would be $5,000. Christa McAuliffe Fellows are required to return to a teaching position in their school district, private school, or private school system for at least two years following the completion of the fellowship. There would be no such requirement for the recipient of an outstanding teacher award.

## COMPENSATORY EDUCATION FOR THE DISADVANTAGED

### PROPOSED 1992 INCREASE FOR CONCENTRATION GRANTS

Question: Mr. Secretary, the Chapter 1 program which as you know is considered to be one of our very best early intervention programs increases only 2.4 percent, or is actually cut after we consider inflation. Over 80 percent of the increase is included in Concentration Grants, and the Basic Grants are not increased at all. The Congressional Research Service has estimated that it would require an increase of $8.3 billion to fund all eligible children. In view of this large funding gap in the basic program, why should all the increase go into Concentration Grants given the uneven distribution of these grants across the country?

Answer: For 1992, the Department's budget request for Chapter 1 LEA grants focuses on aspects of the program that result in better targeting of resources to serve the neediest students more intensively and in greater numbers. Through Concentration Grants, the $119 million budget increase would go to counties and school districts serving higher proportions of low-income children (those with at least 6,500 children or 15 percent of the school-aged population living in poverty).

The Administration has always believed it is appropriate to target resources on communities and individuals who most need Federal assistance. However, Chapter 1 Basic Grants, which go to virtually all counties and more than 90 percent of the school districts in the country, received a 30 percent increase last year. Our 1992 request would maintain this increase.

### RECENT INCREASES IN CHAPTER 1 APPROPRIATIONS

Question: Mr. Secretary, as you know we have increased the Chapter 1 program $1.6 billion or 36 percent over the past two years. How have States and local educational agencies responded to the relatively large increase in Chapter 1 appropriations in recent years? Have they increased the intensity of services they provide, or focused on increasing the number of pupils and grade levels they serve?

Answer: We have no actual data on how the last two years' increases in Chapter 1 appropriations have affected Chapter 1 services to educationally disadvantaged students. However, we believe that States and localities have the capacity to use the increases well. With the increases, districts should be able to provide more intensive, costly kinds of instruction (such as extended-day, summer school, and weekend programs), increase the number of children receiving preschool services (generally more costly then services for children in public schools), and provide Chapter 1 instruction in schools or grades where it is not currently available.

## CHAPTER 1 PROGRAM IMPROVEMENT REQUIREMENTS

Question: How are the program improvement requirements of the 1988 Hawkins-Stafford Amendments being implemented?

Answer: States have moved well beyond the program improvement planning phase. All States have adopted program improvement plans; project implementation at the district and school-building levels is underway. Informal reviews of State reports over two years and the results of a 1990 State survey show that:

- In 1989-90, the first year the Amendments took effect, States identified 5,033 schools for improvement. For 1990-91, preliminary Department estimates show that about 9,000 schools are undertaking program improvement activities.
- Virtually all schools are identified for improvement on the basis of their students' scores on standardized achievement tests rather than other performance measures.
- Initially, most States adopted the minimum standard in the Chapter 1 law as a basis for measuring progress. But, as of Spring 1991, ~~at least~~ 18 States had raised base-level standards or were considering options for higher standards.
- States are distributing program improvement funds through competitive grant mechanisms or in some cases by formulas that distribute funds to all program improvement schools.

To ascertain the effects of program improvement requirements, the Department has commissioned three separate assessments to be done over a three-year period: two surveys of State-level implementation, with the first released in August 1990 and a follow-up in mid-1992; and a study of district and school-level implementation, with an interim report on district findings to be published later this year and a final report in late 1992.

## STATE CHAPTER 1 PROGRAM STANDARDS

Question: Are the States setting meaningfully high standards for their Chapter 1 programs?

Answer: In response to State program improvement requirements in the Hawkins-Stafford Amendments, initially most States adopted the minimum standard in the Chapter 1 statute as a base-level measure for improvement. In order for programs to meet that minimum standard and show acceptable progress, their Chapter 1 children were expected to show a gain greater than zero (that is, a gain of approximately 1 "normal curve equivalent" or NCE) as a result of

Chapter 1 services. By comparison, national average gains for all Chapter 1 children are approximately 2.7 NCEs in reading and 4 NCEs in math.

Now, however, States are revising standards upward: according to informal reports, in the past year about 18 States set tougher standards or considered options to establish such standards. Some also encourage local districts to establish program standards higher than State requirements, or to use other measures besides standardized test scores to gauge program progress.

## TESTING AND CHAPTER 1

Question: There is increasing concern among some educators about the number and types of tests to which we subject American pupils, especially those who are disadvantaged. Many forms of assessment are mandated for Chapter 1 programs, and the Department of Education has announced the formation of an advisory committee on testing in Chapter 1. What are your concerns about current Chapter 1 assessment practices, and how can these be improved, especially with respect to their contribution to pupil instruction?

Answer: We also have concerns about testing and assessment, particularly as it applies to the accountability requirements mandated in P.L. 100-297. The program improvement features of the Act require a greater degree of accountability at the school and student levels than had previously been the case. Administrators must make decisions about program operations and instructional practice partly on the basis of norm-referenced achievement test results. These tests, however, are not designed to yield accurate data about the achievement of individual students or very small groups of students, and therefore should not be used as the sole basis for making program decisions.

The Department continues to advocate the use of "desired outcomes," as specified in the Act, along with test scores, when evaluating program effectiveness and making program improvement decisions. Desired outcomes may be assessed in a number of ways, including the use of State or locally designed or mandated assessment tests, criterion-referenced or mastery tests, student portfolios, and other forms of alternative assessment.

The Advisory Committee on Chapter 1 testing now being established will conduct a comprehensive assessment of the standardized tests currently used and will advise the Secretary on possible improvements in test instrumentation, administration, and the reporting of test results at State and local levels. The Committee will also advise on whether -- and which -- alternative assessement procedures could help Chapter 1 programs and students. The Committee is specifically charged with recommending alternative procedures that could be used to improve and reform instruction, implemented with reasonable cost and minimum burden, and intuitively understandable to the general public.

## DISTRICT SPENDING FOR EDUCATION

Question: Some have expressed concern that Chapter 1 aid can have only limited impact on the overall educational experience of disadvantaged children, if continuing school finance disparities in many States result in much lower total spending per pupil in low income areas, compared to more affluent localities. In other words, the Chapter 1 funds may compensate for only part of the total spending gap between relatively rich and poor areas of a State. What is your response to this concern?

Answer: This issue, raised by members of the National Assessment of Chapter 1's Independent Review Panel, is the subject of a study conducted as part of the National Assessment. The study will look at a sample of approximately 120 schools with varying poverty levels in both high and low tax-base districts in six States. It will examine differences in the types and amount of services, consequences of differing resource levels, and relationships between Chapter 1 resources and those available from Federal, State, and local educational funding sources, especially State compensatory education program resources. A question the study will attempt to answer is whether, and to what degree, Chapter 1 provides services in high-poverty schools in fiscally poor school systems that are typically provided using local funds in schools in wealthier districts.

The study will produce: (1) a concept paper on measures to allow for meaningful comparisons of the equitability of funds and services across schools and districts; (2) tabulations of data from the sample of 120 schools; (3) a summary report of findings with case studies; and (4) a prototype chart that applies the measures from the concept paper to compare the availability and use of services across schools and districts.

## NATIONAL ASSESSMENT OF CHAPTER 1

Question: What is your progress thus far in meeting the mandate in P.L. 101-305 to conduct a new national assessment of Chapter 1? Is this study being conducted by the Office of Educational Research and Improvement, as provided by the statute?

Answer: As provided by statute, the three-year assessment is being conducted jointly by the Office of Planning, Budget, and Evaluation and the Office of Educational Research and Improvement. In 1990, these two offices formed an in-house workgroup to help plan and manage assessment activities. In January 1991, a 22-member Independent Review Panel -- mandated by Congress to consult on the planning, review, and conduct of the assessment -- met for the first time to review Chapter 1 data and issues. The group also convened in February and April; a fourth meeting is scheduled for July.

The National Assessment of Chapter 1 draws on ongoing Department studies as well as new studies commissioned specifically for the assessment. At present, some 20 different studies contribute to aspects of the assessment, and all have been (or will be) commissioned by the end of 1991. An interim report with preliminary findings from the assessment is due in June 1992.

Question: Will all results of the assessment be available to inform congressional consideration of Chapter 1 reauthorization scheduled for 1993?

Answer: Some 20 different studies will provide data to inform the Assessment's final report due to Congress in December 1992. Information from several related studies that extend beyond that date (the mandated longitudinal study of Chapter 1, for example) will also contribute substantial information for the assessment.

## FIELD READERS

Question: What is the reason for the proposal to distribute costs for "field readers" of grant proposals among Chapter 1 and other program accounts, rather than funding these through the Salaries and Expenses account?

Answer: The Department is seeking authority to use a portion of the funds appropriated for any discretionary grant program to pay the costs of peer reviewers, or field readers, who evaluate the competitive applications for that program. Tying funds available for field readers directly to the funds appropriated for discretionary programs is important to ensure the quality of the peer review process. This is particularly true for unanticipated new programs created during the middle of the budget cycle. In the past, Congress has created new discretionary programs without providing any corresponding increase in the Program Administration (Salaries and Expenses) account for the costs of field readers.

Question: Is this an indirect way to attempt to increase funds left for other Salaries and Expenses activities?

Answer: Because no funds are included in the 1992 Salaries and Expenses budget request for field readers, the proposal would not increase funds for other activities. The proposal is made to ensure the quality of the peer review process. There are many competing priorities for salaries and expenses funds. Certain fixed costs--such as employee salaries and rent--as well as absorption of pay raises and across-the-board reductions to appropriations, require reduction in other discretionary activities, such as field readers, in the Program Administration account. In the past we have resorted to using Federal employees as readers and to mailing applications for review. However, the quality of the reviews suffered and there was such criticism of the process by the Congress. This proposal would help to ensure that the most highly qualified individuals are selected for the evaluation of grant applications.

## 1990 CENSUS AND CHAPTER 1

Question: Will the FY 1992 appropriation for Chapter 1 be allocated on the basis of poor child counts from the 1990 Census? What is the extent of redistribution of grants that you anticipate will occur when 1990 Census data are used, either in FY 1992 or 1993?

Answer: We anticipate that 1990 census data will be used for the first time to allocate the 1993 appropriation. We have not yet received preliminary census data that might be used in estimating the impact of the 1990 census on the distribution of Chapter 1 funds.

Question: What proposals will you make to alleviate problems resulting from the shifting of Chapter 1 grants among States and localities?

Answer: Two provisions in the Chapter 1 statute will benefit States and local districts that might suffer drastic reductions in Chapter 1 funding based on new census data. The statute guarantees: (1) a Basic Grant allocation for each local educational agency of not less than 85 percent of the amount it received in the previous year; and (2) State minimum allocations for Basic and Concentration grants.

After we receive preliminary 1990 census data we will be in a position to gauge changes in the distribution of Chapter 1 funds and, if necessary, to propose policies to address those changes.

Question: Would not an increase in Basic Grant appropriations help to deal with this concern?

Answer: An increase in the appropriation would help some local districts; many others would not benefit. Until census data are available, however, we are unable to determine the amount of increase that would be necessary to bring States and school districts with decreased counts of poor children above the 85 percent "hold harmless" funding level.

## CHAPTER 1 SCHOOLWIDE PROJECTS

Question: What is the current extent of use of Chapter 1 aid through schoolwide plans, as authorized by the 1988 Hawkins-Stafford Amendments?

Answer: Dollar estimates of the amount of Chapter 1 funds going to schoolwide projects are not available, but we know that since the amendments removed the local matching requirement, projects have multiplied. According to survey findings released January 1990, schoolwide projects increased from 199 to 621 in the months after the amendments took effect, and the number of States with at least one schoolwide project rose from 22 to 40. Since that time, according to preliminary reports from States, the estimated number of projects has doubled, with as many as 1,300 in operation during the 1990-91 year.

Question: Are schoolwide projects more effective than regular Chapter 1 programs? Are they limited to a small number of urban areas?

Answer: Schoolwide projects are being evaluated over a three-year period. We will not know the impact of such projects until after the 1991-92 school year, when data will be available on how many projects were able to demonstrate greater achievement gains than the district average. Meantime, data for the 1989-90 school year show that some students in schools with such projects appear to be doing far better than those in traditional Chapter 1 settings, and others not as well.

Schoolwide projects are permissible in schools with a 75 percent poverty rate; hence, many rural schools qualify for such projects.

Question: Are Chapter 1 schoolwide plans a model of regulatory flexibility that might be applied to other Federal education programs?

Answer: The tradeoff is flexibility for accountability, but it is too soon to judge whether, in return for flexibility in using Chapter 1 dollars, LEAs can deliver more effective services that result in greater achievement for Chapter 1 students.

We are first and foremost concerned with effective instruction and, when LEAs are willing to be held accountable for results in return for such flexibility, we believe we should enable them to do so.

## CHAPTER 1 INNOVATION PROJECTS

Question: What sorts of "innovation projects" are local educational agencies conducting, under the authority granted to them by the Hawkins-Stafford Amendments of 1988?

Answer: According to preliminary data from States, the majority of innovation projects focus on parental involvement and staff development. Among the more unusual projects: providing tutors for Chapter 1 students who have transitioned out of Chapter 1 programs or transferred to ineligible schools; lending computers for use in the home to help involve parents in their children's school work; training regular teachers to work with disadvantaged youth and to operate in-class programs; and joint sponsorship (with the private sector) of a cable TV enrichment program.

Question: Is use of the innovation project authority widespread?

Answer: Findings from a survey of States published in 1990 indicated that innovation projects were slow to catch on. In 1988-89, according to the survey, projects began in 97 districts and 23 States. Information on the number of projects will be reported in a follow-up survey of States conducted during the 1991-92 school year.

## SECONDARY SCHOOL STUDENTS AND CHAPTER 1

Question: Small increases have recently occurred in the use of Chapter 1 to serve secondary school students. Do you encourage this trend? If so, why do you not propose funding for the Chapter 1, part C program for secondary students?

Answer: School districts determine the grade levels that receive local Chapter 1 services based on local needs, priorities, and strategies. Rather than specifying funds for secondary education, we believe that districts should have the flexibility to implement their Chapter 1 programs at the grade levels in which they believe their educationally disadvantaged children have the greatest need for services.

As Chapter 1 funding increases, we anticipate that additional students will be served at preschool and secondary levels, and we are encouraged to see districts giving greater attention to children at those levels. But over the long haul, we believe that needs at the secondary level can be lessened through effective intervention in prekindergarten and elementary school.

## RESEARCH AND CHAPTER 1

Question: What efforts are you making to relate current research, such as the findings of your National Center for Research on Effective Schooling for Disadvantaged Students, to the Chapter 1 program?

Answer: The Center has two contracts from the Department to conduct studies of urban and rural schools in order to identify and determine the effectiveness of special strategies that are, or could be, used to teach Chapter 1 children. The studies are being conducted in tandem with Prospects, the congressionally mandated study of Chapter 1 outcomes, and will figure prominently in the findings for the National Assessment of Chapter 1. The Center has provided the Department with a review of literature related to the study; its final report is due in 1993. In addition, the Center's director is a member of the Department's 22-member Independent Review Panel established earlier this year to advise on the National Assessment study.

Other research information obtained as a result of evaluations are also used to inform the Chapter 1 program. For example, the Department's contract with SRI, Inc. on academic instruction for the disadvantaged provided current information on what research says regarding the education of disadvantaged children.

Question: Are you actively assessing the value of new instructional methods for disadvantaged children, and disseminating information about them to the local educational agencies operating Chapter 1 programs?

Answer: Information obtained from three major Department studies -- "Academic Instruction for the Disadvantaged Children," "Special Strategies for Educating Disadvantaged Children," and "Case Studies of Best Practices for Children and Youth at Risk of School Failure" -- contribute to our knowledge of instructional methods for disadvantaged children.

The Academic Instruction study has produced a series of reports, beginning with Better Schooling for the Children of Poverty: Alternatives to Conventional Wisdom (January 1990). This report has been widely distributed to practitioners, and information from the report has been disseminated in workshops conducted by the Chapter 1 Technical Assistance Centers for Chapter 1 administrators and educators, for example, and in an article in the Kappan, a publication widely read in the education community. A second report from the study, What is Taught and How to the Children of Poverty, was sent to Congress in April 1991. Copies for mass dissemination are being printed by the Government Printing Office.

Briefings for Department staff have been held by contractors conducting the other two studies, which are both conducting case studies of instructional practices and strategies in urban, suburban, and rural sites. When these studies are completed, the results will be published in a format appropriate for use by practitioners. In addition, findings from these studies will be presented at national conferences.

## INSTRUCTION IN BASIC AND ADVANCED SKILLS

Question: The 1988 Hawkins-Stafford Amendments require Chapter 1 programs to teach not only basic academic skills, but also such "higher order" skills as problem solving and analytical thinking. How effective has this effort been thus far?

Answer: As a result of the amendments and other emphasis on "higher order" skills, the quantity of achievement test data in advanced skills is expected to rise significantly. In school year 1988-89, approximately a dozen States reported advanced skills achievement gains; in 1989-90 information from 40 States showed that 33 required testing for advanced skills. Most States without such requirements are planning or studying issues and options to institute such tests.

Question: Do Chapter 1 programs frequently overemphasize basic skills instruction, further disadvantaging the pupils they serve?

Answer: In the past, programs often focused on overcoming the basic skills deficiencies of Chapter 1 students in the belief the basics had to be mastered before more advanced skills could be learned. One result was that tests such as the National Assessment of Educational Progress showed student improvement in basic skills, but not in more advanced skill areas.

Now, along with new improvement and accountability provisions in the Chapter 1 law, schools are devoting greater attention to higher-order skills as well as the fundamentals. Although the emphasis on basic skill acquisition may not have resulted in further disadvantaging children, we believe that attention to advanced skills will result in higher levels of student achievement.

## PRIVATE SCHOOL CHILDREN AND CHAPTER 1

Question: How are the Chapter 1 Capital Expenses grants for private school children being used?

Answer: Based on discussions between the Department's Office of Compensatory Education and individual State educational agencies (SEAs), it appears that most of the Capital Expenses grants made to local educational agencies (LEAs) in 1989 and 1990 were used to reimburse LEAs for administrative costs incurred as a result of the 1985 Felton decision rather than for administrative costs that could lead to services to a greater number of private school children. The Department will confirm these preliminary findings during Chapter 1 program reviews conducted throughout the year in about 30 SEAs.

Question: Can you estimate the total level of need for this assistance?

Answer: We have no overall estimate of need for the kinds of assistance that the Capital Expenses program is designed to serve. In a 1989 report on the impact of the Felton decision, however, the Government Accounting Office estimated that, at that time, local school districts would need $104 million to return to the pre-Felton level of services for private school children, including $19 million a year for recurring administrative costs. The 1989, 1990, and 1991 appropriations provided approximately $81.6 million toward reimbursing post-Felton costs and for other administrative expenditures designed to expand LEA capacity to serve private-school students. Our 1992 request would add another $36.1 million. We believe that our budget is adequately addressing the need with funding increments over time.

Question: Why is the participation of private school pupils in Chapter 1 still well below the level for 1984-85?

Answer: In 1984-85, Chapter 1 services were provided to private school students in their own schools, but since the 1985 Felton decision, LEAs have had to provide Chapter 1 services to private school children at locations away from those schools. The ruling continues to present enormous problems for LEAs as well as for private school children, parents, and teachers. Since the Felton decision, the number of private school students has gradually increased. Even so, we are unable to serve as many students as efficiently and effectively as we could before Felton.

## EVEN START AS STATE FORMULA GRANT PROGRAM

Question: What difficulties will result from switching Even Start from a national, discretionary grant program to a State formula grant?

Answer: The Even Start law and regulations address issues with regard to the program's transition to State formula status, and we have operated the discretionary grant program with those provisions in mind. For example, we have not funded more projects in a State than the formula amount will support. The law also establishes a single set of criteria for choosing LEA projects in Federal or State competitions and for the composition of review panels that must be convened to evaluate applications.

Beyond administrative adjustments necessary to accomplish the changeover, we do not foresee any major difficulties.

Question: What are the commitments of States to continue funding Even Start projects previously funded by the U.S. Department of Education?

Answer: The regulations require that States continue funding for current projects before awarding new grants, provided that current projects are demonstrating satisfactory progress in meeting their objectives. This means that, should Even Start convert to a State formula program in 1992, as many as 251 projects funded by the Department in 1989 through 1991 would be continued by States.

Question: Will many States be so constrained by previous commitments that they have little real control over the Even Start program?

Answer: For 1992, the Department has requested a $10.2 million increase to fund new projects. In addition, all current projects will be required to increase local contributions by 10 percent, which will release an additional $5 million for new projects. All States will be able to fund a mix of new and continuation projects.

## SCHOOL IMPROVEMENT PROGRAMS

### DRUG-FREE SCHOOLS

Question: Mr. Secretary, the State grant portion of the Drug-Free Schools and Communities program has grown an average 25 percent in the last four years and now reaches 78 percent of the school districts across the country.

The request for State grants shows no increase in 1992. The program overall grows only 4.2 percent, and all the growth is in Emergency Grants for Urban Areas. Emergency Grants are proposed to increase $25.2 million, more than doubling the emergency grants program.

Mr. Secretary, are you satisfied that the drug problem has peaked enough to justify flat funding for the State grant program?

Answer: The Drug-Free Schools State and local grants formula, which is based on school-age population, school enrollment, and Federal compensatory education funding, does not fully take into account the extreme problems faced by schools that are disproportionately affected by trafficking and abuse. Given the magnitude of growth in the State grant program (more than tripling since 1987 to over $8.00 funding per pupil, on average, in 1991) I believe it is appropriate to target the requested increase on districts most in need of assistance.

Question: Why does all the growth -- small as it is -- seem to get targeted for densely populated urban areas? I want to assure you that we have a problem in many small communities across the State of Iowa.

Answer: To be eligible for an Emergency Grant a school district must have a high number (more than 6,500) or high proportion (more than 15 percent) of children counted for purposes of allocating compensatory education funds under Chapter 1 of Title I of the Elementary and Secondary Education Act. This requirement is included under section 5136 of the Drug-Free Schools and Communities Act. However, there is no requirement that the Emergency Grant funds be targeted on densely populated urban areas. Many rural communitites qualify as well. While not all school districts with drug problems will be eligible for these funds, that has never been the purpose of the Emergency Grants program.

## REPORT OF THE NATIONAL COMMISSION ON DRUG-FREE SCHOOLS

Question: Mr. Secretary, in its final report to Congress, the National Commission on Drug-Free Schools published the results of a recent independent survey of 200 public and private high schools. It revealed that 98 percent of these seniors attended schools in which cocaine use was reported and that alcohol and tobacco use among our youth has increased over the past decade.

Clearly, we are not winning the battle to establish drug-free schools. Yet, a January 1990 Gallup Poll found that a majority of Americans believe that educating young people about the dangers of drugs is the best way to win the war on drugs, and they are willing to increase Federal funding for these education and prevention programs.

Again this year, the Administration is proposing to target only 29 percent of total funding for the "War on Drugs" for education and prevention activities, while the remaining 72 percent will be spent on programs aimed at domestic and international supply reduction.

What is your view of this funding scenario?

Answer: Demand reduction and supply reduction go hand in hand. Federal policy must take into account that State and local governments do not have responsibilities for international interdiction and border control, so it is justifiable that a greater percentage of the Federal effort be directed at supply reduction. This does not diminish the importance of education and prevention programs, but they should not be viewed as purely (or even primarily) a Federal responsibility. We also note that recent surveys indicate that drug use is declining.

Question: Do you believe that our best hope in combatting drug use among our youth is through education and prevention programs at the elementary and middle school level?

Answer: I believe our best hope in combatting drug use among our youth is through comprehensive, community-wide prevention programs that involve students, schools, parents, law enforcement, business, and all other elements of the community. Education and prevention programs at the elementary and middle school level can and should be an integral part of such a community-wide effort and should be reinforced by the enforcement of laws against drug and alcohol possession, use, and distribution.

## DRUG-FREE SCHOOLS: COMMISSION FINDINGS

Question: Mr. Secretary, your 1992 request shows an overall increase of only 4.2 percent for the Drug-Free Schools program, and this increase is concentrated in the Emergency Grant component of the program.

How can you reconcile your decision to level-fund the school personnel training and State grant portions of the Department's program, in light of the Commission's key finding that additional resources are needed for training our educators and evaluating the success of our current anti-drug programs?

Answer: I concur with the National Commission on Drug-Free Schools that training for teachers and counselors, as well as evaluating our drug education and prevention efforts, are important components of our overall drug prevention and education effort.

A significant portion of the funds available from the Drug-Free Schools and Communities Act (DFSCA) is already being spent on training. For example, we estimate that State educational agencies will spend about $7 million of their DFSCA State grant set-aside funds on training and technical assistance this year. Local educational agencies will spend approximately $25 to $30 million in DFSCA State grant funds for staff development and training. This is in addition to the $23.4 million school personnel training program. Furthermore, the Regional Centers for Drug-Free Schools, funded at almost $16 million, devote as much as one-third of their time to providing training and assistance to school districts.

Training is a shared responsibility and, accordingly, the National Commission on Drug-Free Schools found that "funding drug education and prevention efforts is a responsibility that federal, state, and local governments share. In many states and communities, however, the burden for funding falls primarily on the federal government." In order to reach everyone who needs to be trained, ED's efforts need to be complemented by efforts of State and local governments. In addition, as the Commission also stated in its report, "not all drug prevention efforts require substantial amounts of funds; some very effective activities require minimal resources." School districts need to explore training opportunities that cost little or nothing. For example, local school districts can use the resources and expertise of other local service providers such as the courts; law enforcement officials; and mental health, social services, and health personnel. Individuals from all these groups have expertise in drug issues and their expertise can be transferred to educators.

We agree with the Commission that more emphasis needs to be placed on evaluating the effectiveness of ongoing drug prevention programs by SEAs and LEAs. We are, therefore, planning to provide additional technical assistance to them through training in evaluation techniques by the Regional Centers for Drug-Free Schools and Communities. The Department is also developing an evaluation handbook to assist individuals at the State and local levels in assessing their programs. The handbook should be issued this Fall. We do not believe that additional funds are necessary for evaluation activities at the present time.

## DRUG-FREE SCHOOLS CERTIFICATION

Question: Under regulations promulgated in response to a provision in P.L. 101-226, the Drug-Free Schools and Communities Amendments of 1989, every Institution of Higher Education, State Education Agency, and Local Education Agency that has failed to submit a drug prevention certification to the Secretary by October 1, 1990, is not eligible to receive funds or any other financial assistance under any Federal program. What is the status of compliance with this submission of certification of the colleges, universities, and elementary and secondary schools of this Nation?

Answer: All of the Nation's 7,700+ institutions of postsecondary education and all 57 State educational agencies have certified that they have met the requirements of P.L. 101-226. Similarly, all but six of the Nation's 14,000+ local educational agencies have certified that they have met these requirements. (The six that have not certified -- all very small districts -- prefer to forfeit their Federal financial assistance in return for greater independence from Federal rules and regulations.)

## DRUG-FREE MODEL ALTERNATIVE SCHOOLS

Question: The 1989 Drug-Free Schools and Communities Amendments provided for Local Education Agencies to use their allocations under the Act for model alternative schools for youth with drug problems that address the special needs of such students. What can you tell us about any LEAs that are making use of this provision? What kinds of alternative programs are being supported?

Answer: Because this provision was enacted into law well into school year 1989-90, we speculate that model alternative schools, if funded, were planned in 1989-90 and are being implemented for the first time during the current (1990-91) school year. Since we plan our data collection efforts long in advance, we do not yet have any information on the kinds of alternative programs being supported with Drug-Free Schools and Communities State grant funds.

## FIE--CRITICAL FOREIGN LANGUAGE TRAINING

Question: The crisis in the Persian Gulf has driven home the need to improve the understanding of Americans in areas of the world that impact so strongly on our national well-being. Japan is another case in point. And yet, the number of students studying Arabic or Japanese, or Chinese or Russian--what are known as the critical languages--is miniscule.

Last year, in a modest effort to address this problem, the House and Senate together stated in the conference report accompanying the Department's fiscal year 1991 appropriations, that they had included under the Fund for Innovation in Education (FIE) $1 million for critical language training activities. Despite clearly stated congressional intent, the Department recently decided that it would NOT spend the $1 million on critical language training. I would like your comments.

Answer: The Department has no authority to support noncompetitive grants using the Fund for Innovation in Education. A grant competition will be announced in the Federal Register in June 1991. We will specifically invite applications for projects that address the needs of underachieving students, projects to expand instruction in critical foreign languages in elementary and secondary schools, and projects for restructuring. We will set aside $3.5 million for this competition, more than complying with the intent of the conference report.

## REGIONAL MATH AND SCIENCE EDUCATION CONSORTIUMS

Question: The Senate Committee added $5 million to the National Programs portion of the Eisenhower Mathematics and Science

Education for support of the regional mathematics and science education consortiums authorized by P.L. 101-589. What steps is the Department taking to establish these consortiums?

Answer: Although a new program to establish regional consortia has been added to the authorizing statute, funds appropriated for 1991 were earmarked in the appropriations bill for National Programs. No funds were appropriated for the regional consortia, which are authorized under a different section of the statute. However, in the April 5, 1991, issue of the Federal Register, the Department announced a competition that is limited to projects to improve curricula in mathematics and science education. Proposals for regional mathematics and science education consortia were specifically invited. Almost $3 million is available for this competition.

## NEW BLOCK GRANT PROPOSAL

Question: As you know, the President's budget proposes that four education programs be included in the new block grant program to increase Federal aid to States. The four education programs are:

1) Chapter 2;
2) Impact Aid;
3) Public Library Services Programs (PLSP), and
4) Supplemental Education Opportunity Grants (SEOG).

The Budget notes that these are only possible candidates for "turnover" to the States.

Mr. Secretary, what is the status of the block grant proposal? Are the four education programs I just mentioned still candidates for inclusion in the block grant proposal?

Answer: The 1992 Budget promised that the Administration would work with States, local governments, and the Congress to identify a mutually agreed upon set of programs that could be turned over to the States in a single new block grant. The programs identified in the budget as potential candidates for inclusion were intended as a starting point for discussions. While several organizations have made proposals as to the programs that should be included, the "negotiating" process is in its early stages.

Question: These four programs based on current law have different recipients: Chapter 2 goes to State Educational Agencies, Impact Aid goes to school districts; PLSP funds go to a variety of institutions including State and local public libraries and institutions of higher education; and SEOGs go to institutions of higher education, which in turn distribute financial aid in the form of grants to students.

Who in the States would receive the funds, and would the States be given any guidelines on how they further distribute the funds?

Answer: Given that the process for identifying programs for inclusion in the new block grant program is in the early stages, it is premature to discuss the procedures for distributing the funds.

Once the final list is determined, the States would use the funds provided in the same areas as the original programs.

Question: Would agencies that now receive funds under the four programs be involved in decisions on how block grant funds are to be spent?

Answer: Agencies that would receive the block grant funds cannot be specified yet, as it is unknown what the final group of programs to compose the block grant will be. The Administration will be discussing and working with the States, local governments, and the Congress to identify the programs that could be included, and following these decisions we will know more about which agencies would be involved and their respective roles.

### DISTRIBUTION OF FUNDS UNDER NEW BLOCK GRANT

Question: Current law provides for very different formulas for the distribution of these funds. Chapter 2 funds are distributed according to school-age population. Most Impact Aid funding is distributed by numbers of "federally connected" students in a school district. Substantial amounts of Public Library Services program funds are allocated based on total resident population. Supplemental Educational Opportunity Grant (SEOG) funds are distributed to institutions based first on the fiscal year 1985 SEOG program allocation and then on aggregate financial need of eligible undergraduates.

How would these funds be distributed to the States? Would the allocation formula be changed?

Answer: Again, it is premature to discuss the details of how a distribution formula might work, as programs to be included in the new block grant have not yet been determined. Once the set of programs are agreed to, a State-by-State distribution of available funds will be calculated based on the current distribution of funds from programs that will be a part of the new grant. There will be neither "winners" nor "losers" in terms of funding.

## IMPACT AID

### FUNDING FOR LOW-RENT HOUSING "B" CHILDREN

Question: The Administration's request for FY 1991 included $25 million for "b" children who reside in or whose parents work on federally subsidized, low-rent housing property. Deputy Under Secretary Kolb told us at last year's hearings that "these children frequently are from families living near the poverty level, thus generating little tax revenue for local school districts." Since the Department has made no similar request for FY 1992, I wonder if you could tell us what change in conditions led to your change in policy?

Answer: We continue to believe that those "b" children who reside on low-rent housing property represent a more significant burden to school districts than do other "b" children. However, to remain within the constraints of the fiscal year 1992 budget agreement and continue support for the Administration's other education priorities, we were unable to include a request for funding for "b" payments.

## LIBRARIES

### LITERACY ACTIVITIES

Question: The Department is taking credit for a proposal to increase literacy funds by $46 million (from $314 million to $360 million). But the vast majority of that increase, $35 million, represents a shift from library funds. The Department plans, after cutting library services 75 percent, to designate the remaining $35 million for adult literacy programs. Now if you set aside the proposed shift in library funds -- because that's not going to happen -- the Department is really asking for 3.4 percent over last year for literacy programs, a CUT in other words of .7 percent from current services. I must say that the logic of robbing libraries of critical service funds in order to pay for literacy programs completely escapes me. Perhaps you can explain?

Answer: The Department's proposal is to require that funds appropriated for 1992 under the Library Services and Construction Act (LSCA) be limited to activities under subsections 4 and 7 of Title I of LSCA, which authorize, respectively, literacy activities in libraries, and model library literacy centers. In 1988, States reported that about 5 percent of the funds appropriated for Public Library Services under LSCA were used for literacy activities in libraries, a percentage similar to that reported in previous years. Congress provided $8.2 million for Library Literacy Programs under LSCA Title VI in 1991. The $35 million proposed for 1992 would provide a substantial increase over the amount that would otherwise be likely to be spent from LSCA funding for literacy activities in libraries. Most of the one-on-one training typically provided would take place in a library, a place thought to be less threatening to an illiterate adult than a school. This proposal to narrow the scope of the Public Library Services program in order to concentrate on literacy activities is in keeping with the President's commitment to improving literacy levels in the United States and addressing the national education goal of every adult American being literate by the year 2000.

Question: President Bush promised in 1988 to "wipe out illiteracy in eight years." Estimates of the number of functionally illiterate adults in this country now range from 23-27 million, and are on the rise. Is President Bush going to be able to keep his campaign promise?

Answer: Making every adult literate by the year 2000 is one of the national education goals established by the President and the Governors. All of the national goals are ambitious. Some, like literacy for all adults, and leading the whole world in mathematics and science, are very challenging. But each is a worthy objective, and we should not rest until all are achieved. The fight to improve literacy is not just the Federal Government's fight. Lots of sectors are involved--States, localities, corporations, schools, colleges, community groups, and individual volunteers.

### ELIMINATION OF FUNDING FOR DISABILITY-RELATED LIBRARY SERVICES

Question: In Iowa this year, the Cedar Rapids Public Library received a $20,000 grant under the Library Services and Construction Act and used that money to provide new disability-related services. It bought TTD machines, scanners to magnify print, and closed caption decoders for check-out. It bought large-print books and videos. That $20,000 has made a difference to the disabled residents of that community. Now you have again proposed eliminating these funds and I would like for you to tell me what, if any, alternative funding would be available under your budget for programs like the one in Cedar Rapids.

Answer: No funding for equipment and services like those you describe in Cedar Rapids would be available under the Department's proposal for Libraries. States have had access to library funds to improve services to individuals with disabilities for many years. (The Library Services and Construction Act first made funds available for this purpose in 1967.) The Department's proposal would require that all of the appropriated funds be used for literacy activities in libraries, which would result in a net increase in funding for library literacy activities, and would include literacy services provided to individuals with disabilities.

## BILINGUAL AND IMMIGRANT EDUCATION

### BILINGUAL EDUCATION STUDY

Question: The Department just released its long-awaited, $4.5 million study on three methods of bilingual education. According to the study, each of these three methods effectively educates Spanish-speaking students. What application, if any, does this study have to the education of the 40 percent of bilingual students from other language minorities?

Answer: As stated in the Executive Summary of the final report, the study results are relevant only to these programs exhibiting the same characteristics as those selected for the evaluation, and serving limited English proficient students who speak Spanish. Caution should be used when considering the applicability of the findings to other language minority students, particularly when looking at the achievement data. However, the findings regarding the passive language learning environment provided for students in all three program types and regarding the differences among the program types in parental involvement with their children's homework may have greater applicability to other language groups.

Question: The study failed to follow immersion and early-exit students into the 5th and 6th grades to see how they compared with their late-exit counterparts. Could the Department be overlooking important delayed effects of the various methods of bilingual education?

Answer: It is impossible to draw conclusions, from the study, as to delayed positive or negative effects of the three methods of bilingual instruction on the academic achievement of these students. Furthermore, there are no other reliable studies that provide evidence on the long-term effects of these programs. Moreover, there is no research that would indicate that these programs should have a delayed effect.

## RESEARCH, STATISTICS AND IMPROVEMENT OF PRACTICE

### OERI FIELD READERS

Question: This year, for the first time, you used "field readers" to review grant applications under the Fund for the Improvement and Reform of Schools and Teaching (FIRST) program. By so doing, you saved the Department $80,000 on travel and per diem. Do you have plans to expand the use of field readers to other programs?

Answer: The Office of Educational Research and Improvement currently uses field readers for all grant programs to provide high-quality information for award decisions. The cost of the review process may vary depending on the specific process utilized--mail review, regional review, or review in Washington. For example, last year, the FIRST program conducted the review process at regional sites. While there were no field reader costs, there were travel and per diem costs associated with 21 staff members traveling to seven sites. But this cost was far less than bringing 210 readers to Washington for five days. This year, the FIRST program plans to use a mail review process and will provide the readers with a modest honorarium.

Most of the programs administered by OERI's Programs for the Improvement of Practice (PIP) award fewer grants and receive a much smaller number of applications than does the FIRST program. To date, it has been more cost effective for PIP to convene 10-20 reviewers in Washington than it would have been to convene regional panels in the field. However, if in the future such an arrangement becomes feasible, PIP will consider initiating the process.

OERI's Office of Research has two programs which use field readers: the Field Initiated Studies program and the National Research and Development Centers program. The Field Initiated Studies program currently uses and will continue to use a two-tier field reader review process. Under the Tier I review process each proposal is mailed to and reviewed by three field readers; and under Tier II an external peer review panel is convened in Washington to review proposals identified by the Tier I field readers as being worthy of funding. Review of proposals received for the National Research and Development Center competitions will continue to be reviewed by external field reader panels convened in Washington. It is necessary for field readers to meet as a group to discuss their comments because of the substantial nature of the financial commitment (5-year awards) and the substantive nature of the work proposed.

## OERI ADMINISTRATION

Question: Why did you move 13 existing programs from the Office of Elementary and Secondary Education into the Office of Educational Research and Improvement (OERI) account? How long has OERI actually administered these programs?

Answer: Although the Office of Elementary and Secondary Education administers many of the programs in the School Improvement Programs account, the 13 demonstration and improvement programs in question have been administered by OERI since its establishment in 1980, or in the case of programs established in the interim, since their inception. Several of these programs were established by the Hawkins-Stafford Elementary and Secondary School Improvement Amendments of 1988.

In appropriations hearings over the years, questions have been raised several times about just which programs OERI administers. Last year, a change in the account structure was recommended as a way of more accurately reflecting the work of OERI. The existing structure has been even more confusing to the public.

The proposed structure--moving all of those demonstration and improvement programs administered by OERI into the Education Research, Statistics, and Improvement account, then retitling it Assessment, Statistics, Research and Improvement--should eliminate the confusion and more accurately reflect the mission of OERI.

## NCES ADULT LITERACY STUDY

Question: What is the status of the adult literacy study at the National Center for Education Statistics?

Answer: The National Adult Literacy Survey is currently undertaking a field test that is designed to check out survey procedures, the background questionnaire and literacy items, and the effect of varying levels of response incentive payments. The field test data collection will be completed in June 1991, and the results presented to the survey's Literacy Definition and Technical Review Committees in mid-August. The questionnaire and literacy items will then be revised and submitted for OMB clearance. Data collection for the full-scale survey is scheduled to begin in February, 1992.

Two kinds of sample supplements are being planned. It is likely that nine States will commission the Educational Testing Service, the National Adult Literacy Survey contractor, to conduct comparable State surveys of adult literacy at the same time as the national survey, providing literacy estimates for this group of States. (Iowa and Indiana have already signed contracts.) In addition, it is likely that another supplemental survey will provide separate literacy estimates for incarcerated adults.

Question: How close are you to determining the number of adults who are illiterate?

Answer: The field work for the full-scale survey will be completed by August, 1992. The results will take eight months or more to process and report. The one-on-one interviews are composed of tasks that simulate the literacy demands of real life; the answers require a large number of written responses that must be hand-scored. Administering a literacy assessment to such a large sample of households and such a wide age range sets this effort apart from machine-scorable classroom tests. Because this assessment is new, the data from the survey must first be scaled and analyzed before the results can be tabulated. The final report is scheduled for publication in Spring, 1993.

Question: Will your study include a sample of older Americans, the group that has shown the highest illiteracy rates in the past?

Answer: Yes. The contract has been modified to remove the upper age limit on the sample eligibility criteria. By adding a sample of adults 65 years old and older, the sample size will be increased from an expected 12,600 completed survey forms to 14,800 completed forms.

## DEFINITION OF LITERACY FOR NCES STUDY

Question: What is the approximate grade level equivalent for the "consensus" definition of literacy you are using for your study?

Answer: The consensus definition of literacy does not refer to a grade level equivalent. The National Adult Literacy Survey will not give a single number on how many adult illiterates there are in the Nation. Instead, it will describe the nature and extent of literacy among adults over 16 in the United States. The information will be presented in such a way that analysts, educators, and policymakers can choose their own standards for literacy and calculate the proportion of adults falling below that standard. Because most experts in the adult literacy field view literacy as an arbitrary standard that depends on the demands placed on each individual, the lack of literacy skills is not something that can be meaningfully aggregated. The emphasis of the survey will be on the degree of literacy of adult Americans rather than on those adults who demonstrate no literacy skills at all.

The definition of literacy to be used in the National Adult Literacy Survey represents an important shift in viewing literacy. Rather than conceiving of it as a set of discrete skills distributed along a single dimension, literacy is viewed as a complex set of information-processing tasks, such as locating embedded information, holding information temporarily while finding additional related information, transforming fragments of information into new knowledge, and communicating the results of these complex activities in a new, written form. Separate scales are needed because different kinds of information--numbers, connected prose, and other information--put differing demands on readers. For each of the three scales (prose, document, and quantitative literacy), the survey will report on various levels of literacy achieved by different proportions of the population.

## NCES VOCATIONAL EDUCATION DATA SYSTEM

Question: What progress has the National Center for Education Statistics made in establishing and operating a vocational education data system, as required by law?

Answer: The National Center for Education Statistics (NCES) is continuing to revise its derived system for collecting data on vocational education through its Data on Vocational Education (DOVE) plan. This data system includes data from approximately a dozen surveys in the Federal Government that incorporate information on various aspects of vocational and non-vocational education, as opposed to being based on a single survey that specifically addresses vocational education. This approach meets the intent of the Perkins Act as expressed in Section 421(e)(1).

Immediately after passage of the new Perkins Act amendments, NCES convened a vocational education working group to identify those provisions of the Perkins Act that can be met with existing data bases, those that may require modification of existing survey programs, and those that may require new data collection efforts. In one case, for instance, the work group realized that NCES already has data on the participation of women in vocational education pursuant to Section 421(c)(2)(A). NCES is in the process of determining what modifications to its current data gathering instruments are necessary to ensure that data are available to assess the participation of limited English proficient and disabled students in vocational education pursuant to Section 421(c)(3). The report assessing international data on vocational education required under Section 421(d) may require a new data collection effort.

NCES is also working with the Office of Vocational and Adult Education (OVAE) to establish a technical review panel that will review Department of Education data collection activities in vocational education and provide input to a report that the National Center for Research in Vocational Education will issue regarding data needs in vocational education. We believe that this report will be of great use as NCES considers further revisions to its data program to respond to the Perkins Act requirements.

## SYSTEMATIC COLLECTION OF VOCATIONAL EDUCATION DATA

Question: When can we expect the systematic collection of data on this segment of American education?

Answer: The National Center for Education Statistics (NCES) has already begun systematically collecting data on vocational education in conjunction with its periodic survey program. Information on participation and characteristics of students, teachers, and institutions is becoming available on a regular basis from data collections that were initiated in the late 1980s. For example, data are now becoming available on vocational teachers through the Schools and Staffing Survey, and data on participation of tenth graders in vocational education was recently collected as part of the National Education Longitudinal Study. In addition, NCES will collect high school transcripts as part of the National Assessment of Educational Progress every four years. This is in addition to transcript studies that will be conducted approximately every eight years in association with NCES' longitudinal surveys. Transcript studies are crucial to determining the extent to which students are participating in vocational education.

NCES, however, still plans to continue to investigate what additional data should be collected on vocational education. For instance, the National Center for Research in Vocational Education will issue a report to NCES and the Office of Vocational and Adult Education regarding data needs in vocational education that will be used to revise NCES' plans to collect data on vocational education.

## VOCATIONAL AND ADULT EDUCATION

### VOCATIONAL EDUCATION BASIC STATE GRANTS

Question: In spite of the fact that the fiscal year 1992 budget requests an additional $36.5 million for the Basic State Grant program for vocational education, funding to the States will only increase by about $3 million due to the budget proposal to eliminate funding for consumer and homemaking education. Over 19 million students are enrolled in vocational education programs nationwide. Do you feel that a $3 million increase is sufficient to address the myriad of needs in training students who do not go on to college to meet the changing technologies of the workforce?

Answer: We believe that our budget request for the Basic State Grant program, in conjunction with the revisions to the Perkins Act that will strengthen program accountability requirements, eliminate many of the inflexible funding set-asides, and restructure the within-State allocation requirements to focus resources on areas with significant numbers of students with special needs, will provide a sound basis for ensuring quality vocational education and contribute to the goal of achieving a capable and productive workforce.

Our overall request for vocational and adult education takes into account the fiscal realities that face us. As a result, we have attempted to focus funds on selected areas that the Administration considers to be a top priority. For example, we have requested a $20.5 million, or 10.5 percent increase, for Adult Education State Grants to expand and improve adult literacy programs nationally. We believe that this program is a vital element in the Administration's efforts to achieve the national goal that every American be literate and possess the skills necessary to compete in a global economy.

### DISTRIBUTION OF STATE VOCATIONAL EDUCATION FUNDING

Question: The Perkins Act requires that States distribute funds to school districts based on Chapter 1 funding, handicapped enrollment, and overall enrollment. Funds to postsecondary institutions are to be distributed based on Pell Grant recipients and recipients of Bureau of Indian Affairs assistance. Does the Department anticipate that States will have difficulty in implementing the new intra-State formulas required by the Perkins Act?

Answer: The Department anticipates that some States will experience difficulty in implementing the intra-State formulas in a manner that satisfies the intent of the legislation.

At the secondary level, the primary problem appears to be that of providing funds for area vocational-technical education schools (AVTSs). Section 231(a) of the Perkins Act requires that 70 percent of the funds made available for secondary-level vocational education programs be distributed to school districts based on funds they received in the prior year under Chapter 1 Basic Grants. An AVTS typically receives very little funding under Chapter 1 and could, as a result of this procedure, receive little Perkins Act funding. An AVTS may receive vocational education funds that would have otherwise been distributed to local school districts if the school district agrees to transfer those funds. A problem would arise, however, if a school district refuses to share its Perkins Act grant with an AVTS.

At the postsecondary level, vocational education funds which are to be made available for institutions are distributed based on the number of students enrolled in vocational education programs who receive Pell Grants or assistance from the Bureau of Indian Affairs. Two potential problems have surfaced with regard to this formula:

- A number of States have indicated that numbers of Pell Grant recipients in postsecondary institutions do not accurately reflect the relative number of economically disadvantaged students in those institutions because the number of Pell Grant recipients is greatly influenced by tuition costs and perhaps by the aggressiveness of schools in securing such grants for their students.

- A number of economically disadvantaged students enrolled in technical institutions and in adult education centers typically do not apply, or are not eligible to apply, for Pell Grants. As a result the formula seems to favor community colleges over other types of postsecondary institutions that provide vocational education programs.

Section 232(b) of the Perkins Act provides for a waiver of the postsecondary formula if the State can demonstrate that an alternative formula would be more equitable. However, some States maintain that alternative measures of economic deprivation are difficult to obtain.

## VOCATIONAL EDUCATION FUNDS--INTRA-STATE FORMULAS

Question: What assistance is the Department providing the States to implement these formulas?

Answer: This past December and January, the Department sponsored four regional meeting with State officials concerning the implementation of the Perkins Amendments. A State Plan Guide was developed to assist the States and provided the framework for group discussions. Funding formulas were among the topics discussed.

The Department has also provided assistance through telephone calls, meetings with individual State officials, and responses to questions through ADVOCNET, an electronic mail system. As the Department discovers specific problems while reviewing State vocational education plans, issues will be resolved through direct contact with State officials either informally by telephone or through official correspondence.

The Department has received a number of State requests to waive the postsecondary intra-State distribution formula established in Section 232 and to establish an alternative formula that a State believes is more equitable. Most of the alternative formulas have proposed criteria that rely on the number of economically disadvantaged individuals living in the area around a postsecondary institution rather than on the number of individuals actually enrolled in an institution. The Department has approved several requests to change the distribution formula and is working with other States to identify more appropriate alternative formula criteria.

## VOCATIONAL EDUCATION TERRITORIAL SET-ASIDE

Question: Under current law, 0.2 percent of the total appropriated for Basic grants and national research, demonstration, and data programs would be set aside for the Territories. Within that set-aside, monies over and above those authorized for Guam, American Samoa, the Northern Marianas, and Palau, will be reserved for the Center for the Advancement of Pacific Education (CAPE) to make grants for vocational education and training in the Pacific Basin Territories, including Micronesia and the Marshall Islands. Were the Congress to override the 0.2 percent set-aside, as proposed in the fiscal year 1992 budget, how would this impact on funding for the Territories, CAPE, Micronesia, and the Marshall Islands? Provide a comparison between fiscal year 1991 funding and fiscal year 1992 if funding were to be distributed under current law, and the distribution of fiscal year 1992 as requested in the budget, per Territory, CAPE, and Micronesia, and the Marshall Islands.

Answer: Under our 1992 request, all of the $1.134 million requested for the Territories would flow to American Samoa, Guam, the Northern Mariana Islands and Palau. No funds would be provided to support the Center for the Advancement of Pacific Education. Our 1992 request would provide for a 6 percent increase in vocational education grants for American Samoa, Guam, the Northern Mariana Islands, and Palau over what they will receive in 1991. The following table provides the requested comparisons:

FY 1991 Actual and 1992 Proposed
Vocational Education Funds to Territories

| | 1991 Appropriation [1] | 1992 Request | Difference |
|---|---|---|---|
| American Samoa | $189,998 | $201,364 | +$11,366 |
| Guam | 499,993 | 529,908 | +29,915 |
| Northern Marianas | 189,998 | 201,364 | +11,366 |
| Palau | 189,998 | 201,364 | +11,366 |
| CAPE [2] | 692,358 | --- | -692,358 |
| Total | 1,762,345 | 1,134,000 | -628,345 |

---

[1] Distribution based on authorizing statute.

[2] Funds would be distributed to the Federated States of Micronesia and the Republic of the Marshall Islands at the discretion of CAPE. Because these funds will not become available until July 1, 1991, no data are available on how much funding is to be provided to Micronesia and the Marshall Islands.

## TECH-PREP EDUCATION

Question: The fiscal year 1992 budget request $63.4 million for Tech-Prep, a program that supports planning and demonstration grants to develop and operate model 4-year programs that begin in high school and provide students with the mathematical, science, communications, and technological skills needed to earn a 2-year associate degree or 2-year certificate in a given occupational field. Is the Department providing technical assistance to the States to implement this program?

Answer: The Office of Vocational and Adult Education (OVAE) plans to provide States with technical assistance to help implement the new Tech-Prep program. OVAE is currently in the process of hiring staff who will have the responsibility for providing assistance to States and consortia of postsecondary institutions and secondary schools to develop effective Tech-Prep programs.

Question: To what extent do such programs as tech-prep better prepare people for work than the traditional education programs?

Answer: Because the Tech-Prep education is a new program, funded for the first time in 1991, there are no data available on this program's effectiveness. However, we believe that this approach, which links secondary and postsecondary academic and occupational preparation programs in a cohesive way, has much potential for providing the skilled workers needed for occupations requiring high-level technical expertise.

The Department is in the process of designing a comprehensive review of Tech-Prep activities. This review will assess the implementation of Tech-Prep programs funded under the Perkins Act and examine factors related to successful implementation. The

Department is also developing a compliance monitoring program, in response to Section 508 of the Perkins Act, which will monitor States' adherence to the requirements of the Act. The Tech-Prep program will be monitored through this process. Completion of these activities will enable the Department to assess and validate the impact of the Tech-Prep program.

Question: What is being done to coordinate and/or combine tech-prep programs with some of the funding received through the Department of Labor for on-the-job training programs?

Answer: An element in the comprehensive review of Tech-Prep activities discussed above will be the identification of program components or approaches that bring about effective coordination between secondary and postsecondary educational institutions as well as their coordination with related training programs carried out by the Department of Labor.

## IMPLEMENTATION OF THE PERKINS ACT AMENDMENTS

Question: What are the major problems which must be resolved before the 1990 Perkins Act Amendments take effect on July 1, 1991?

Answer: In implementing the new Amendments, the Department has identified the need to:

- Develop a process for States to rewrite their plans in cases where they were do not accurately assess State vocational education needs;
- Provide assistance to some States to strengthen parts of their State plans that are unacceptable;
- Communicate to the vocational education community the extent to which the new Perkins Act has changed Federal vocational education programs; and
- Assist States to make the transition from the old authorizing statute to the new, especially in the use of carry-over funds.

## FEDERAL MONITORING

Question: To what extent will monitoring of federally funded vocational education programs by the Department of Education be increased to assess the availability of opportunities for special populations in secondary and postsecondary education programs?

Answer: In response to Section 508 of the Perkins Act, which provides for Federal monitoring of programs authorized under the Act, a special compliance monitoring unit is being established within the Office of Vocational and Adult Education. In carrying out its responsibilities this unit will consider issues such as whether:

- The provisions of the State plan are being fully implemented;

- The State's monitoring of local recipients of Perkins Act funds is adequate to ensure full compliance with statutory program requirements, particularly as they relate to access to vocational education programs by special populations;
- State-level coordinators for individuals who are members of special populations are able to review the local plans for serving such individuals;
- Other State responsibilities under the Perkins Act are being implemented; and
- States have provided for input from students, parents, teachers, and special populations in the design and implementation of vocational education programs.

## ANALYSIS OF STATE PLANS

Question: In order for the Department of Education to assure the Congress that the Perkins Act funds will be distributed and used in a manner which complies with congressional intent, what analysis of State plans to be submitted in May 1991 will be performed by Departmental officials?

Answer: The Department has developed a State plan guide which draws on the provisions of the authorizing statute and on guidance the Department has issued concerning implementation of the law. This document has been shared widely with State and local vocational education officials and other interested groups. Program staff review all State plans to ensure that the information required under the Perkins Act has been provided and is accurate. This review will be based on the State plan guide. All staff reviewers have also been trained in reviewing State plans and are well versed in the requirements of the Perkins Act.

## RETRAINING OF VOCATIONAL EDUCATION TEACHERS

Question: What steps are being taken by the Department to address the need to provide retraining for vocational education teachers to ensure that the skills being taught will match the demands of the job market?

Answer: The Department is planning the following activities in fiscal year 1992 to address the need for training and retraining of quality teachers in vocational education:

- Establishing a network to disseminate information about the preparation and training needs of teachers to meet the changing demands of the job market;
- Disseminating information about alternative teacher certification programs so that individuals with skills in emerging technologies who are not certified by a State to teach can instruct vocational education students; and

- Conducting research through the National Center for Research on Vocational Education to provide information on inservice training for teachers to help them update skills that address emerging technologies.

## PROVIDING DATA TO THE GENERAL ACCOUNTING OFFICE

Question: To what extent has the Department of Education's National Center for Education Statistics (NCES) been able to provide data to GAO for its use in conducting the congressionally mandated longitudinal study of the Perkins Act amendments?

Answer: NCES has made numerous contacts with appropriate GAO staff and has worked closely with them to provide information needed to conduct the mandated three-year study of the effects of the Perkins Act. NCES has given GAO descriptions of its data bases, provided copies of its current survey questionnaires, and provided suggestions on how its surveys might be used to help meet GAO's mandate.

To date, GAO has not requested specific data tapes or asked that specific questions be added to NCES surveys. However, NCES staff will continue to cooperate with GAO to ensure that they have access to NCES data and have the opportunity to augment NCES' surveys.

## NATIONAL ASSESSMENT OF VOCATIONAL EDUCATION

Question: What is the status of the third volume of the 1989 National Assessment of Vocational Education?

Answer: The third volume of the National Assessment of Vocational Education, which addresses secondary vocational education, is expected to be released by September 1991. Drafts of two chapters of this report, describing the delivery systems for secondary vocational education and vocational education course-taking by high school students, have been completed by the contractor. The chapters on outcomes of vocational education and future research needs are currently being prepared. The Department is also in the process of preparing a summary report on the third volume.

## COMMUNITY-BASED ORGANIZATIONS

Question: The fiscal year 1992 budget requests $11.7 million for Community-Based Organizations (CBOs), a program targeted to at-risk individuals not always served by regular vocational education. According to your budget justification, the Department conducted a study of CBOs in 1990 in nine States and found little coordination between participants served by CBOs and other mainstream vocational education programs and also found little objective project-level evaluation data to support conclusions on the effectiveness of services. In view of the 1990 study, what steps is the Department planning to take to improve coordination and evaluation?

Answer: The Department has established a network of State Community-Based Organizations contacts to help facilitate and improve communications between individual community-based projects and programs operated by State and local educational agencies. In addition, each State is required to assess the effectiveness of its CBO program and provide in its State plan a description of how funds used for this program reflect the identified needs.

### CONSUMER AND HOMEMAKING EDUCATION

Question: The fiscal year 1992 budget proposes to terminate $33.3 million in funding to the States for Consumer and Homemaking Education. The majority of students participating in consumer and homemaking education are female. Given the fact that the problems in the home, including a lack of parenting skills, money management, and child abuse and neglect are continuing to escalate at an alarming rate, why is this program consistently targeted for elimination? Do you not feel that this program is effective?

Answer: The Department has requested no funding for this activity for two reasons. First, virtually all States currently have active, well-established consumer and homemaking programs that would continue without direct Federal support. States use Federal Consumer and Homemaking funds only to supplement State and local efforts in this area. Every Federal dollar is matched by $20 from State and local sources. Second, the Department believes that each State should decide which programs it should support. The proposal to shift funds from this categorical program to the Basic State Grants in 1992 would provide States with greater flexibility in meeting their vocational education needs.

## REHABILITATION SERVICES AND DISABILITY RESEARCH

### VOCATIONAL REHABILITATION NEEDS ASSESSMENTS

Question: The 1986 amendments to the Rehabilitation Act required State vocational rehabilitation (VR) agencies to undertake needs assessments of persons with severe handicaps in each State. To what extent have these assessments been completed, and how have the States used the results in determining priority for VR services?

Answer: Section 101(a)(5) requires States to include in their State plans the results of a comprehensive, Statewide assessment of the rehabilitation needs of individuals with severe handicaps residing within the State and the State's response to the assessment. All 83 State vocational rehabilitation agencies (57 general agencies and 26 agencies for the Blind) have completed a Statewide assessment of the rehabilitation needs of individuals with severe handicaps residing within their States. As required by the Rehabilitation Act, each State VR agency has provided an attachment to its State plan that describes the results of the Statewide assessment, as well as the State's response to the assessment. Further, all State VR agencies have conducted public meetings and have allowed for public comment in the formulation of the State plan and the information contained therein as required by section 101(a)(23)(A).

When a State anticipates that it cannot serve all those eligible for services, the State must develop an order of selection to be followed in selecting individuals with handicaps to be provided services. At the present time, only 22 of the 83 State VR agencies operate under an order of selection. It is not known to what extent the needs assessments have informed implementation of the order of selection in these agencies.

## SUPPORTED EMPLOYMENT CLIENTS UNDER TITLE I

Question: What percent of persons rehabilitated under Title I are placed in supported employment?

Answer: RSA has just begun to collect data from all States on the number of persons receiving services leading to supported employment placement under Title I by adding data elements to the RSA-911 data collection system. However, due to the lag time in implementing data collection at the State level, only a few States were able to report on the supported employment data elements in FY 1989, and FY 1990 data have not yet been analyzed.

## TITLE I FUNDING FOR SUPPORTED EMPLOYMENT

Question: What proportion of Title I funds are used for supported employment clients?

Answer: Based on data collected for FY 1989 from 34 States by the Rehabilitation Research and Training Center on Supported Employment at Virginia Commonwealth University (VCU), it appears that approximately 2 percent of the total Title I vocational rehabilitation budget is expended on individuals in supported employment (SE). The States reported that $13.495 million of the total Federal expenditure of $1.085 billion was spent on individuals in SE during FY 1989, or about 1.6 percent.

## SOURCES OF FUNDING FOR LONG-TERM SUPPORT IN SUPPORTED EMPLOYMENT

Question: What types of funding are being used to maintain long-term support for supported employment (SE) clients once VR funding is eliminated?

Answer: RSA has identified the following sources of funding for extended services in SE:

- State Legislative General Revenue Funds. State legislatures may allocate funds to public agencies and private nonprofit organizations for extended services in supported employment. These funds are often appropriated for specific disability groups.

- Mental Retardation/Developmental Disability Agency Funds. Agencies serving individuals with mental retardation and/or developmental disabilities may designate funds for extended services in supported employment. Funds administered by these agencies include State, local, and Social Security Act Title XIX and Title XX funds.

## SOURCES OF FUNDING FOR LONG-TERM SUPPORT IN SUPPORTED EMPLOYMENT (Continued)

- Developmental Disability Planning Council Funds. The Administration on Developmental Disabilities in the U.S. Department of Health and Human Services provides funds to State Developmental Disability Planning Councils under the Basic State Grant program. The purpose of this program is to plan for services for individuals with developmental disabilities. Each State Developmental Disability Planning Council may award these funds for time-limited demonstration projects. These demonstration projects may fund extended services in supported employment with the expectation that other funding sources will be secured once the project ceases operation.

- Mental Health Agency Funds. Agencies serving individuals with mental illnesses may designate funds for extended services in supported employment. Sources of these funds include State and local dollars, designated Medicaid funds, and funding provided through the Alcohol, Drug Abuse and Mental Health Administration under the U.S. Department of Health and Human Services.

- Title XIX Medicaid Funds. Social Security Act Title XIX Medicaid funds may be designated for extended services in supported employment. The Omnibus Budget Reconciliation Act of 1981 (Public Law 97-35) amended Title XIX to authorize the Home and Community-Based Services (HCBS) waiver. This authority allows the U.S. Department of Health and Human Services to waive specific Medicaid requirements to allow States to finance home and community-based services for Medicaid-eligible individuals. Without home and community-based services, these individuals would require costly institutional care.

  The Consolidated Omnibus Budget Reconciliation Act of 1985 (Public Law 99-272) made additional modifications to the HCBS waiver program. The definition of "habilitation services" was expanded to include prevocational, supported employment, and educational services for persons who are developmentally disabled. As a result of this expanded definition, Medicaid funds may pay for services for individuals with developmental disabilities discharged from a certified Skilled Nursing Facility (SNF), Intermediate Care Facility (ICF), or Intermediate Care Facility for Individuals with Mental Retardation (ICF/MR). State agencies responsible for serving individuals with developmental disabilities can initiate waiver requests through the State Medicaid agency to the Health Care Financing Administration (HCFA). To date, twenty States have secured HCBS waivers from the HCFA to fund supported employment services under the expanded definition of "habilitation services."

- Title XX Social Service Block Grant Funds. Title XX Social Service Block Grant funds may be designated for extended services in supported employment. The Social Security Act authorizes the Social Services Block Grant Program under Title XX. The Title XX program goals relevant to supported

## SOURCES OF FUNDING FOR LONG-TERM SUPPORT IN SUPPORTED EMPLOYMENT (Continued)

employment focus on assisting eligible individuals to achieve and maintain self-support and self-sufficiency. The U.S. Department of Health and Human Services distributes Title XX funds to designated State social service agencies responsible for determining: allocation of funds, populations to be served, and services to be provided. These State social service agencies may utilize Title XX funds to provide extended services in supported employment. They also have the option of granting these funds to other public and private agencies which may then utilize the funds for extended services.

o Job Training Partnership Act (JTPA) Funds. The U.S. Department of Labor awards formula-based grants to State and local governments designated to implement JTPA job training and employment programs. State and local officials, in collaboration with Private Industry Councils, may designate those groups, including individuals with disabilities, to receive training and employment services. Supported employment professionals may contact local JTPA service providers to request funding for extended services.

o State Education Agency Funds. State departments of education may designate special education funds to local education agencies to pay for extended services in supported employment. These funds may only be used during the time students are eligible to receive educational services. Therefore, other funds must be secured to complement State education agency funds for extended services.

o Private Nonprofit Funding. Private nonprofit organizations may provide extended services in supported employment through various funding sources. These sources include fund-raising activities, program income, grants, private contributions, contracts with private enterprises, other public funds, etc.

o Private Foundation and Corporate Funds. National/local foundations and private corporations interested in the rehabilitation of individuals with disabilities may fund extended services in supported employment.

o Natural Supports. Extended services in supported employment may be provided through an approach known as "natural supports." Natural supports are provided by co-workers, family members, friends, and others to assist individuals in supported employment with work-related tasks and daily living skills.

o Employer Supports. Extended services may be provided through employer-sponsored supported employment programs, e.g., the McJobs Program sponsored by the McDonalds Corporation.

## SOURCES OF FUNDING FOR LONG-TERM SUPPORT IN SUPPORTED EMPLOYMENT (Continued)

- Independent Living Centers (ILCs). ILCs may fund extended services in supported employment through various funding sources. These sources include Title VII, Part B funds (if extended services are delivered by an ILC), program income, grants, private contributions, contracts with private enterprises, other public funds, etc.

- Social Security Work Incentives: The Social Security Administration provides work incentives for Social Security Disability Insurance (SSDI) and Supplemental Security Income (SSI) beneficiaries. These are the Impairment-Related Work Expense (IRWE) and the Plan for Achieving Self-Support (PASS). Both the PASS and the IRWE may be used to fund extended services in supported employment.

## AVAILABILITY OF CONTINUED FUNDING FOR SUPPORTED EMPLOYMENT

Question: Is continued funding for supported employment not available in some cases?

Answer: Funding for extended services in supported employment (SE) is not available for many individuals who could benefit from the program. Generally, funding for extended services is more available for individuals with developmental disabilities and, to a lesser extent, for individuals with mental illnesses than for other disability groups. According to the most recent data collected by the Rehabilitation Research and Training Center on Supported Employment at Virginia Commonwealth University (VCU) for FY 1989, 64.3 percent of individuals in SE were people with developmental disabilities, while persons with mental illnesses comprised 20.5 percent of the total. Although funding is limited and varies from State to State for these populations, extended services are generally available because a designated State agency exists which addresses their rehabilitation needs. State VR agencies have successfully negotiated funding arrangements for extended services in SE with many of these designated State agencies.

In contrast, funding for extended services for persons with other disabilities such as traumatic brain injuries, cerebral palsy, sensory impairments, and other severe physical disabilities is available on a more limited basis. According to the FY 1989 data collected by VCU, such individuals comprised only 15.2 percent of the total number of individuals in SE. Extended services have been secured for these populations from a variety of funding sources. However, since no State agency is designated specifically to address or fund the rehabilitation needs of these populations, rehabilitation professionals have been unable to serve many of these individuals in SE. Continued efforts are required at the national and State levels to address funding of extended services for these populations.

## JOBLESS RATE FOR SUPPORTED EMPLOYMENT CLIENTS

Question: Is the jobless rate for supported employment clients significantly higher than the jobless rate for clients placed in competitive employment?

Answer: It is difficult to identify the jobless rate for supported employment clients since SE clients include a diverse group of individuals with disabilities including individuals with developmental disabilities, mental illness, cerebral palsy, traumatic brain injury, and other impairments. However, by definition, SE is intended for individuals with severe handicaps for whom competitive employment has not traditionally occurred or has been interrupted or intermittent as a result of severe handicaps. Historically, these individuals were not eligible for or were not successfully served by State vocational rehabilitation (VR) agencies. With regard to job tenure, no data exist on whether these same individuals, once placed in SE, have a higher job retention rate than other individuals served by VR agencies. Future research on job retention rates will be useful in evaluating the impact of SE in this area.

## NIDRR ACTIVITIES TO HELP IMPLEMENT THE ADA

Question: What activities have been undertaken by the National Institute on Disability and Rehabilitation Research (NIDRR) to help implement the Americans with Disabilities Act (ADA)?

Answer: NIDRR is initiating the following technical assistance activities in fiscal year 1991: (1) ten Regional Disability and Business Accommodation Centers, each of which will be responsible in one Federal region for technical assistance and training on issues relating to the ADA, with an emphasis on employment; (2) three Materials Development Projects on employment, accessibility and public accommodation, and accessibility in communications; (3) two National Training Projects targeted on persons with disabilities, their families, and organizations representing persons with disabilities; and (4) a coordination contract to obtain and distribute materials among the grantees, ensure quality and consistency of the products and technical assistance activities of the grantees, and evaluate the grantees. NIDRR plans to support the Centers for five years, the material development projects for two years, the training projects for three years, and the coordination contract for three years.

In 1991, NIDRR is supporting a one-year Innovation grant for the production, broadcast, and distribution of a video program about the ADA and a Field-Initiated project to assess the potential role of Independent Living Centers in the implementation of the ADA. In addition, NIDRR is providing funds to the National Council on Disability for two symposia on the research implications of the ADA. NIDRR is also transferring funds to the Department of Justice to help with the costs of printing and distributing pamphlets prepared by Justice and to the Equal Employment Opportunity Commission to support completion of a manual on implementation of the ADA employment provisions. NIDRR will spend about $5.3 million in 1991 on activities related to implementation of the ADA.

In 1992, NIDRR intends to announce invitational priorities for ADA-related projects in the Field-Initiated and Innovation grants programs. It expects to spend at least $4.9 million on ADA activities in 1992, including support for activities continued from 1991.

## COORDINATION OF NIDRR'S ADA ACTIVITIES WITH OTHER FEDERAL AGENCIES

Question: Are these activities being coordinated with other Federal agencies involved with the implementation of the Americans with Disabilities Act (ADA)?

Answer: Yes. NIDRR is coordinating its ADA-related technical assistance efforts with a number of other Federal agencies, including the Department of Justice, the Equal Employment Opportunity Commission, the President's Committee on Employment of Persons with Disabilities, and the Rehabilitation Services Administration. Representatives from these agencies make up an ad hoc interagency coordinating group. NIDRR staff has been meeting two or three times a month with representatives from this coordinating group to share information and materials and to coordinate ADA technical assistance activities. NIDRR plans to have representatives from these agencies, as well as other relevant agencies, review the products of the regional centers, materials development projects, and training projects that NIDRR is initiating in 1991 to ensure that they are accurate and appropriate.

## SPECIAL EDUCATION

## ADMINISTRATION CLAIMS SPECIAL EDUCATION IS A "HIGH PRIORITY"

Question: The Department states in its budget that it places a "high priority" on improving services to Americans with disabilities. Well if this is high priority, Mr. Secretary, I'd hate to see low.

For special education programs serving children birth to 5 years old, you've requested 3.6 percent over last year -- a CUT in real terms. You increased infants, but at the expense of 3-5 year olds.

Clear up my confusion, Mr. Secretary. Why is the Department requesting a cut in its so-called "high priority" programs?

Answer: Our request is not a cut in real terms in the special education programs serving children birth to 5 years old. Our budget proposal, which includes increases in all three State grant programs under the Individuals with Disabilities Education Act (IDEA), would result in an increase in real terms. We have requested a 6.6 percent increase in the Grants to States program, which would provide a 5.5 percent increase in the estimated Federal share for each child served. States receive funds for children aged 3 through 5 years old under both the Grants to States and the Preschool Grants programs. In addition, we have requested an increase of 1.1 percent for the Preschool Grants program and a

10 percent increase for the Grants to Infants and Families program. Based on the total budget proposal for the three State grants programs, our request would provide an increase of 6 percent for children aged birth through 5 years served under IDEA. We believe that this request demonstrates the high priority that we have placed on improving services for all children with disabilities.

### INDIVIDUALS WITH DISABILITIES EDUCATION ACT -- ATTENTION DEFICIT DISORDER

Question: Have the newly authorized attention deficit disorder centers been established?

Answer: The Department plans to make several awards for centers to address the needs of children with attention deficit disorder (ADD).

Four centers will be funded to analyze and synthesize the current research literature--two on identification and assessment and two on interventions. Proposed priorities for these centers were published in the Federal Register on April 6, 1991. We expect that awards will be announced in September 1991.

In addition, the work scope of the new Federal Regional Resource Center (FRRC) has been expanded to include work with the six Regional Resource Centers and State educational agencies to identify effective identification, assessment, and intervention strategies being implemented across the country for children with ADD. This award is expected to be announced in June 1991.

### GAO REPORT ON MONITORING OF SPECIAL EDUCATION STATE GRANTS

Question: The General Accounting Office (GAO), in response to a request by this Subcommittee, recently reported on monitoring of State formula grants by the Office of Special Education Programs (OSEP).

The good news is that the backlog of unissued monitoring reports has been reduced, and the time it takes to issue final monitoring reports has been decreasing.

The bad news is that each State education agency currently is being visited by OSEP staff about every 5 to 6 years instead of once every 3 years, the goal set by the Assistant Secretary of the Office of Special Education and Rehabilitative Services.

What is the Department doing to increase the frequency of State visits to once every 3 years?

Answer: The Department is attempting to increase the frequency of monitoring visits in several ways. First, OSEP monitoring procedures have been streamlined so that less time is required to prepare and issue monitoring reports. As this process becomes more efficient, more staff time should become available for State visits. Second, we have reduced the scope of responsibilities so that monitoring staff have more time to concentrate on monitoring issues. In order to provide more time for monitoring, certain functions that were previously the responsibility of monitoring staff have been reduced or shifted to other staff. Third, additional staff are being requested in order to increase the number of teams to carry out visits. We would like to create at least three new monitoring teams by fiscal year 1994. Fourth, we expect to improve the quality of our training of new monitors so that they will be better and more quickly trained. Our plan is to assign experienced monitors to new teams as they are created in order to provide "peer training" to newly-hired monitors.

Question: What is the greatest impediment--staffing or travel funds?

Answer: At this time the greatest impediment is inadequate staffing. In order to complete comprehensive monitoring on a three-year cycle, additional staff are needed. Recruitment also poses a problem. It is difficult to find already qualified applicants for monitoring activities since monitoring personnel must know thoroughly the statute and regulations dealing with the education of individuals with disabilities. Therefore, some time must be spent on training most newly-hired monitors. Funds for travel have been adequate in both 1990 and 1991, so funding for travel has not been an impediment.

## IMPROVEMENTS IN MONITORING PROCESS

Question: According to a recent GAO report on the Office of Special Education's Programs' (OSEP) monitoring of State formula grants, the backlog of unissued monitoring reports has been reduced and the time it takes to issue final monitoring reports has been decreasing. To what do you attribute these improvements?

Answer: Two primary factors contributed to the reduction of the backlog of unissued reports. First, changes were made to improve the quality and efficiency of the monitoring system. OSEP substantially revised the data collection process to ensure that it focused on priority areas and would result in well-documented and legally supportable findings. Data are now collected in a form that is more easily analyzed and verified. Steps were also taken to ensure that findings are clearly and accurately stated and legally supportable. As a result of improvements in the quality of the draft reports, few changes are now required in the final reports. (Changes are only made when a State submits documentation that a factual finding was inaccurate.) Second, during the summer of 1990, monitoring staff responsibilities were changed so that staff could focus solely on the completion of monitoring reports. Staff writing reports put in extensive overtime to complete reports. The commitment and hard work of OSEP staff were major factors in reducing the backlog. The improved monitoring procedures that are discussed above and staff commitment to completing final reports as quickly as possible continue to be major factors in improving the time it takes to issue final reports.

Question: Although the amount of time to issue monitoring reports to States has decreased, it still takes an average of about 10 to 15 months once a visit is made, according to the GAO report.

This still seems like a long time. Why do you think it takes this long and where can improvements be made?

Answer: Although monitoring reports are always a priority activity, monitoring staff are also responsible for other important activities, including State plan reviews, approvals for funding, review and approval of the individual corrective actions a State has taken, and correspondence. At times, it is necessary for staff to put monitoring reports aside, in order to review a State plan or a corrective action product or to respond to important correspondence. During the past two years, OSEP has tried to streamline the monitoring system as much as possible while maintaining a comprehensive system with integrity. In order to further decrease the amount of time it takes to issue final reports, additional monitoring staff would be needed.

## LENGTH OF TIME NECESSARY TO CLOSE REPORTS

Question: The GAO report states that for the latest monitoring visits for each of the 51 State education agencies, through fiscal year 1990, only 15 cases had been closed. To close the 15 cases it took on average about 3-1/2 years from the date of the monitoring visit and 1-1/2 years from the date the corrective action plan was approved by OSEP.

This seems like an extremely long time to close a case. What monitoring procedural changes are needed or have been made to improve upon the time to close cases?

Answer: Beginning with the 1990-91 monitoring cycle, OSEP now develops the corrective action plan, which is included in its final report to States, rather than having States develop corrective action plans that OSESP must approve. Having States develop corrective action plans could extend the time for closing a case by as much as a year. Having OSEP develop the corrective action plan should reduce the time it takes to close cases by 6 to 12 months from the time final reports are issued. As discussed above, hiring additional staff would also help reduce the time it takes to complete monitoring activities.

Question: Can you provide examples as to why it takes so long to close some cases, such as the need to revise State laws or implement State regulations?

Answer: Activities that may extend the time it takes to close cases include: (1) Revisions to State statutes and/or regulations that are necessary for compliance. The timelines for these revisions depend upon on State legislative schedules and procedures. (2) Provision of technical assistance. Many States use OSEP's monitoring as the "springboard" for implementation of large technical assistance efforts, which require the development of extensive technical assistance materials. This technical assistance is frequently provided at many sites in a State over a period of time. If the provision of such technical assistance cannot occur until regulatory revisions have been made, additional time is needed. If a State involves parent and advocacy organizations in the development of technical assistance materials, more time could also be needed. (3) Staff turnover. A State may request an extension in order to hire and train a new staff person.

Question: It is our understanding that a case generally will not be closed and another monitoring visit scheduled to the State until all corrective actions have been completed. Does this give States an incentive not to complete actions in a timely fashion?

Answer: It is not current OSEP policy to delay scheduling a monitoring visit until a State's corrective action plan has been completed.

Question: How can the Assistant Secretary's goal of visiting each State every 3 years be met if on average it takes over 3 years to close a case?

Answer: Because of the changes we have undertaken in monitoring procedures, the time it takes to close a case has been decreasing. Including the corrective action plan in the final report, a change that was only recently initiated, and increasing the monitoring staff should contribute further to cutting the time it takes to close a case. These changes should enable us to close a case within two years from the date of the on-site monitoring visit and help us to meet our goal of visiting each State every three years.

Question: Would States be visited more often if this above policy was not in place?

Answer: No. As discussed above, the need for additional staff is the main reason for not visiting States more often.

## CORRECTIVE ACTIONS INCLUDED IN MONTORING REPORTS

Question: The Office of Special Education Programs (OSEP) recently made some changes to the process of monitoring reports, that is, instead of sending the final reports to the States and asking for their suggestive corrective actions, OSEP is now suggesting the corrective actions when it issues the reports to the States.

What has been the positive and/or negative reactions to this change by State officials?

Answer: Most State officials have reacted positively to having OSEP include the corrective action plan as part of its final report rather than requiring the State to develop the plan. Many State directors of special education have indicated that in the past they were sometimes uncertain about the corrective actions the State should undertake. State directors have also noted that having the plan included with the report enables them to undertake corrective actions immediately. A few States, however, have expressed concern about some of the recommended timelines for development and implementation of corrective actions.

Question: What other significant changes have you recently made in the monitoring of States' formula grants?

Answer: We have made a number of significant changes in the monitoring process. For example, first, public meetings are now held 4 to 6 weeks in a State before the on-site visit to a State. This enables OSEP to analyze public information carefully and use it in selecting issues to be investigated and sites to be visited. Second, at the time the monitoring team leader goes to a State for the public meeting, the team leader may also "shadow monitor" the State monitors (i.e., be a silent observer as the State monitors a school district) in order to gain additional insight into how a State implements its monitoring system. Third, OSEP is developing a document that will present the Federal legal obligations that will be monitored during an upcoming site visit and the documentation that a State may use to show compliance with these obligations, which, in preparation for the visit, States can use to examine their compliance with Federal obligations. Fourth, OSEP has drafted technical assistance documents dealing with procedural safeguards, notices regarding parents' rights, local agency applications for funds, and State monitoring of local agencies. Many of these documents include checklists used by monitors in reviewing a State's systems for ensuring compliance.

At OSEP's April 1991 meeting with State Directors of Special Education, draft copies of these documents, along with the legal obligations document described above, were provided to Directors of Special Education from States that will be monitored next year. As was done in 1991, at the annual OSEP April meeting with State Directors of Special Education, OSEP will announce the States to be monitored in the next cycle. OSEP will meet with the directors from those States to help familiarize them with OSEP monitoring procedures, provide them with technical assistance materials to help in preparing for the monitoring visit, and begin preliminary planning and scheduling.

## STUDENT FINANCIAL ASSISTANCE

### ACCESS AND CHOICE IN HIGHER EDUCATION

Question: We talk a lot about access to higher education. When we consider access, to what degree should we also concern ourselves with providing students in financial need a choice in institutions? When we enable a student to attend the least expensive local institutions, have we fulfilled our obligation to them?

Answer: Given the broad range of postsecondary institutions and programs found in America, as well as differences in the background and interests of prospective students, any true measure of access must include the principle of choice. Federal student aid programs not only help ensure equal educational opportunity by improving access to postsecondary education, they are structured to provide a substantial degree of institutional and program choice to eligible students. The Pell Grant and Guaranteed Student Loan programs, for example, offer portable financial assistance to be used at the school of the student's choice. In addition, institutional costs are included in the need analysis formulas used by the Pell and GSL programs, so that a student attending a high-cost institution is eligible for more aid than a student at a moderate- or low-cost institution.

Nevertheless, not every student can or should attend a Harvard or a Bennington College, and Federal taxpayers should not be obligated to satisfy every choice a student might make.

## PELL GRANT PROPOSALS--EFFECT ON LOWER MIDDLE-CLASS STUDENTS

Question: The Administration's proposal for Pell Grants would increase maximum awards to $3,700 from $2,400, and target the majority of funds to the poorest families with incomes under $10,000, at the expense of lower middle-class students.

I'm concerned about the impact of this proposal on those lower middle-class Pell recipients -- those 404,000 that the Department projects would be eliminated from the program altogether, and the thousands of other students who would see their awards reduced.

Can you tell us the amount in Pell Grants that a family of four with one child in college would receive under the present Pell program and under the President's proposed reforms, if the family income is $10,000, $20,000, $30,000 and $40,000? Would this value differ with the cost of the institution?

Answer: The following chart shows the estimated amount of a student's Pell Grant award for a family of four with one in college. As you can see, the amount of an individual student's award varies with both family income and costs of attendance. Income information is used to calculate the family's ability to pay postsecondary educational expenses, and the actual need for financial assistance is then determined by the difference between the family's ability to pay and the student's costs of attendance.

## PELL AWARDS UNDER CURRENT LAW VERSUS PROPOSED REFORMS

### EXPECTED FAMILY CONTRIBUTION AND AWARD AMOUNT -- CURRENT LAW AND PROPOSED FOR FISCAL YEAR 1992

Current Law -- Fiscal Year 1991

| Income | EFC | Pell Award for moderate cost college ($5,400) | Pell Award for high cost college ($12,500) |
|---|---|---|---|
| $10,000 | $--- | $2,400 | $2,400 |
| 20,000 | 460 | 1,940 | 1,940 |
| 30,000 | 1,530 | 870 | 870 |
| 40,000 | 3,240 | --- | --- |
| 50,000 | 5,160 | --- | --- |
| 60,000 | 7,090 | --- | --- |

Proposed -- Fiscal Year 1992

| Income | EFC | Pell Award for moderate cost college ($5,640) | Pell Award for high cost college ($13,100) |
|---|---|---|---|
| $10,000 | $--- | $3,700 | $3,700 |
| 20,000 | --- | 2,710 | 3,700 |
| 30,000 | 1,730 | 1,370 | 1,970 |
| 40,000 | 3,320 | --- | --- |
| 50,000 | 5,700 | --- | --- |
| 60,000 | 8,960 | --- | --- |

### PROPRIETARY AND VOCATIONAL SCHOOL STUDENTS--PELL AWARD

Question: Would the administration's proposed increase in the maximum Pell award, from $2,400 to $3,700, apply to students attending proprietary and trade schools?

Answer: The maximum Pell Grant award applies to students attending any eligible postsecondary institution. The allowable costs of attendance that may be used in determining the amount of the Pell Grant award would be limited to $5,200 for vocational programs of one year or less in length. A student with no estimated parental contribution and the minimum student contribution of $700 who attends a short-term vocational program with costs equal to $5,200 would qualify for a Pell grant of about $3,560. This same student would qualify for the maximum grant of $3,700 at a proprietary or trade school only if he or she enrolled in a program longer than one year in length at an institution with costs equal to or greater than $5,700.

### PROPOSED STUDENT AID REFORMS--EFFECT ON NEEDIEST STUDENTS

Question: A lot of students who receive Pell Grants, especially the poorest, also receive other financial aid. If you target Pell Grants on the neediest students, and at the same time cut other aid programs -- like State Student Incentive Grants, Perkins loans (SSIG), Supplemental Educational Opportunity Grants, and Work-Study -- aren't those neediest students who rely on other aid programs in addition to Pell in many circumstances worse off?

Answer: We are confident that the neediest students would be better supported under our proposed policies than under current law. The Pell Grant program is currently the most need-targeted of the Title IV student aid programs, and our proposals would increase the targeting of Pell Grant aid to the neediest students. For example, we estimate that the average award to students from families with incomes of under $10,000 would increase from $1,700 in 1991 to $2,200 under our 1992 policies. Because of increases in required institutional contributions in the Supplemental Educational Opportunity Grant and Work-Study programs, we estimate that the average awards under these programs to this category of student would remain about the same between 1991 and 1992. Even though we have not requested new appropriations for the Perkins Loan program, we expect that the average Perkins loan for these students would also be maintained at the same level because of the amounts available for loans in institutional revolving funds. Similarly, we would expect a relatively constant level of support under the State Student Incentive Grant program. Over 96 percent of State aid to students comes from State resources, and we expect that States would maintain their support for students at about the same level whether or not Federal SSIG funds are appropriated.

### IMPACT OF REDUCED PELL GRANT AWARDS ON LOAN DEFAULTS

Question: What would be the impact on defaults of the shift from grants to loans by the hundreds of thousands of students who would lose their Pell Grants or have their awards reduced under your proposal?

Answer: The Department estimates that the reduction in Pell Grant awards and Pell Grant recipients would increase Stafford Loan volume by $290 million and increase Supplemental Loans to Students (SLS) volume by $48 million in 1992. This increase in loan volume would increase the projected net 1992 cost of defaults by $24 million for Stafford and $6.5 million for SLS. These default estimates represent the present value of all default costs from the additional loan volume in 1992.

### MERIT-BASED PRESIDENTIAL ACHIEVEMENT SCHOLARSHIPS

Question: Your budget proposes a new merit-based scholarship program that would provide additional awards of $500 to freshmen Pell Grant recipients who ranked in the upper 10 percent of their high school class or who score high on standardized tests. Once in college, students must rank in the upper 20 percent of their class.

Given unlimited resources, I think this is a very worthwhile proposal. But of course resources are not unlimited. This subcommittee is strained beyond reason. This is reality, and given that reality, is it really the top 10 percent of high school students with whom we should be concerning ourselves?

Answer: We have proposed the Presidential Achievement Scholarship program to motivate young people from financially needy families to excel in their high school studies and to continue their high level of achievement in their postsecondary educational endeavors. This effort to promote academic excellence and achievement would not detract from the goal of providing educational opportunity and access for needy students but would instead augment and support that goal. Throughout our proposals for the student aid programs, we have sought to target limited Federal resources on serving the neediest students. We have proposed to increase funding for the Pell Grant program by over $400 million, to target awards even more on the neediest students, and to provide, through Presidential Achievement Scholarships, another $170 million to students who meet these tighter need requirements and who also have distinguished themselves by their academic achievements. Through this new program, we would be telling young people that there are opportunities for them to continue their education beyond high school, and that if they apply themselves in their current studies and excel academically that those opportunities will be expanded.

## PRESIDENTIAL ACHIEVEMENT SCHOLARSHIPS

Question: Isn't it precisely these students who are most aggressively recruited, who are most likely to have alternative sources of aid made available to them?

Answer: There are large amounts of merit-based aid provided to high-achieving students. However, we want to ensure, through these Presidential Achievement Scholarships, that significant amounts of this aid are provided to the neediest students. The fact that these scholarships would be provided through a highly visible national program would draw the attention of students whose knowledge of postsecondary opportunities is often more limited than that of their more advantaged counterparts, and would provide them an incentive to excel academically. Our disadvantaged youth very much need the financial and motivational benefits of such a program.

Also, since high-achieving disadvantaged students are more aggressively recruited, they often attend more costly institutions. The additional $500 would be very helpful in expanding educational opportunities for these deserving students.

## SOCIO-ECONOMIC BACKGROUND AND ACADEMIC ACHIEVEMENT

Question: Mr. Secretary, do you think there's any link between socio-economic background and achievement at the postsecondary level?

Answer: Yes, I think socioeconomic background and postsecondary academic achievement are related for at least two reasons. First, many economically disadvantaged students lack much of the academic preparation required for postsecondary study, largely because of the poor quality of their elementary and secondary schools. Second, common sense -- as well as the personal knowledge of most people who have attended college -- suggests that students who have to work their way through school may not be able to achieve the same level of academic excellence as students who can devote full-time attention to their studies.

## ACADEMIC PERFORMANCE STANDARDS

Question: Mr. Secretary, the Department is proposing to cut off the bottom ranked 10 percent of students from financial assistance. And once again, it strikes me that you're giving the advantage to the advantaged, and leaving those who are struggling to struggle a little harder. That's not how I see our Federal role.

Just a couple of weeks ago, Dr. Franklyn Jenifer, the new President of Howard University, testified before this subcommittee. Dr. Jenifer finished high school second from the bottom of his class -- second from the bottom. You see, while other students were studying, he was waiting tables to help support his family.

Mr. Secretary, there is always a bottom 10 percent, even in the smartest class, and among that 10 percent are students who truly apply themselves, but just do less well for whatever reason. What about these students? Would you give up on them?

Answer: I am concerned about the impact the proposed minimum academic performance standard would have on the needy students currently served by the Title IV student aid programs. We are therefore investigating alternative ways to emphasize the importance of academic achievement through these need-based programs. I am convinced that the Federal aid programs would be more effective in promoting retention and program completion if the aid recipients saw that there is a relationship between their own good efforts and the receipt of aid.

Question: Wouldn't you in a sense be punishing those students who are attending the more rigorous postsecondary education institutions, and are in the bottom ranked 10 percent of their class, but making satisfactory academic progress nonetheless?

Answer: Presumably, the student attending the more academically rigorous postsecondary institution has chosen the institution because he or she wanted additional challenge and the rewards the additional challenge would bring. Part of the additional challenge would be to perform well enough academically to maintain eligibility for student aid.

## PELL GRANT PROGRAM--
## TARGETING AID ON THE NEEDIEST STUDENTS

Question: In January, the Congressional Budget Office (CBO) issued a report, "Student Aid and the Cost of Postsecondary

Education," in which it gave Federal student aid programs a vote of confidence. "Overall," concluded CBO, "Federal aid -- including grants, loans and work-study -- appears to have been allocated on the basis of relative need." Students were more likely to receive aid and got more aid as their families' ability to pay decreased and as their cost of attendance increased. Is the Department's plan to refocus student aid on the poorest students consistent with CBO's findings?

Answer: The Department is proposing to improve the targeting of aid under the Pell Grant program--it is not proposing to refocus aid from one group to another. The increased focus of Pell Grant funds on students in the less than $10,000 income category results from the combination of proposed changes in the determination of need and in policies that would promote program integrity.

This refinement of the current system is fully consistent with CBO's report, "Student Aid and the Cost of Postsecondary Education," which found that, overall, the receipt of student aid is contingent on both the family's ability to pay for school and the actual cost of attendance. During these times of tight fiscal constraint, it is appropriate to continue to refine the Federal aid award guidelines so that the most financially disadvantaged students receive the assistance required to ensure equal access to postsecondary education.

## ABILITY-TO-BENEFIT

Question: Last year, I included a provision in the appropriations bill requiring that the testing of students to determine their "ability to benefit" be conducted by independent organizations. What is the status of the Department's implementation of this provision? Has the Department published a notice of proposed rulemaking?

Answer: The "ability-to-benefit" testing provision in the 1991 appropriations act was repealed by the Higher Education Technical Amendments of 1991, which were enacted on April 19, 1991. Since the Omnibus Budget Reconciliation Act of 1990 contained an "ability-to-benefit" provision with different terms and conditions, the technical amendments provision was enacted to clarify the differences between the appropriation and reconciliation acts. The Amendments include a new "ability-to-benefit" provision with an effective date of July 1, 1991. This provision requires students admitted as "ability-to-benefit" students to pass an independently administered exam approved by the Secretary in order to be eligible for title IV aid. The schools are currently receiving written administrative guidance on an interim basis until a Notice of Proposed Rulemaking can be published and comments received and considered.

## DEFAULT REDUCTION IN GSL PROGRAMS

Question: Mr. Secretary, for the last 3 years I have been raising the issue of student loan defaults. I have a series of charts prepared by GAO that I think summarize the situation.

On the first chart is a summary of reforms enacted by Congress since 1980 and regulations put in place by the Department. Dozens of them.

But what you see on this second chart here is the growth in loan defaults since 1980. Defaults are going up in spite of the laws enacted by Congress and the regulations implemented by the Department. Defaults are now our third largest education expenditure, and more than 3.5 times the amount of money you propose to spend on America 2000, the President's new education initiative. You can see they're at about $2.5 billion for 1990, having increased 1600 percent since 1980.

And now you're proposing dozens more, Mr. Secretary, as summarized on the third chart:

- * 5 items on default prevention;
- * 4 items on default collection;
- * 8 items on guaranty agency improvements;
- * 3 items on risk sharing; and
- * 8 items on other areas.

This is a $2.5 billion problem -- and rising -- and you're calling for reforms that GAO estimates would save a mere $87 million in fiscal year 1992 if enacted. These estimates are summarized on the fourth chart. We're swatting at flies and letting the elephants by.

I applaud you for the reorganization you announced on April 8 to address this issue, but according to Department staff there is no estimate on savings associated with it.

Is it time for real reform, Mr. Secretary? In last week's America 2000 announcement you talked about inventing the American school. Is it time to reinvent the student financial assistance program?

## DEFAULT REDUCTION IN GSL PROGRAMS

Answer: Any default reduction reforms necessarily involve a long lead time before their impact can be seen. The default costs that we are now paying are the result of loans that were made before the recently enacted measures were implemented. For example, the Department's default reduction regulations only had an effect on loans made after fiscal year 1989. Borrowers did not begin repaying these loans until fiscal year 1991 and most default claims will not begin to be paid until fiscal year 1992. In fiscal year 1991, most of the default claims paid by the Department will cover loans made before any default reduction measures were implemented.

The Department's projections of default costs assume a gradual impact from recent legislative and regulatory initiatives, such as those included in last year's reconciliation bill. This impact can be seen in the following "current services" budget estimates for GSL default costs. ("Current services" estimates assume no additional default reduction measures and no effect on loan volume as a result of proposed legislative changes.)

Current Services Estimates of GSL Default Costs
(does not reflect effects of credit reform)
($ in millions)

| 1990 Actual | 1991 | 1992 | 1993 | 1994 | 1995 |
|---|---|---|---|---|---|
| $2,385 | $2,722 | $2,112 | $1,726 | $1,468 | $1,483 |

Projected savings are based on the legislative and regulatory initiatives which will result in significant reductions in default costs over the next few years. In addition, the Administration's legislative proposals are projected to save $137 million in 1992. This estimate includes $87 million in savings based on credit reform calculations which reflect the long-term savings of new loans made in 1992 (as noted by GAO), plus $50 million in savings from loans made prior to 1992 due to enhanced collection effects that would also require legislative amendments.

The budget savings would have been higher if the projected demand for loans were not expected to increase in 1992. This expansion is due to the proposed increases in annual loan limits to meet the higher cost of postsecondary education, and an anticipated increase in the amount of borrowing due to proposed changes in the Pell Grant program.

I believe loan defaults can be controlled through a combination of legislative, regulatory, and administrative reforms. We are making good progress on these fronts. However, there are several key statutory proposals that, if enacted, would go very far toward minimizing student loan defaults. The Administration has proposed to (1) authorize wage garnishment, (2) eliminate Title IV eligibility for schools with default rates that exceed 25 percent, and (3) require lenders to provide graduated repayment option to borrowers.

## DIRECT LOAN PROPOSAL

Question: Instead of subsidizing banks, guaranty agencies, and secondary markets, why not lend the money directly to the students?

Answer: The Department's focus right now is resolving problems in the current GSL programs. The Administration's reauthorization proposals to reduce defaults, to improve guarantee agency financial stability, and to increase accountability for all program constituents are the Department's top priorities. When the current programs are operating more effectively, we will be in a better position to consider alternative structures for delivering loans to students.

## GUARANTEED STUDENT LOAN PROGRAMS--
## STUDENT DEBT BURDEN

Question: Your proposal for student financial assistance would focus grants on the neediest students, requiring less needy students to finance their education with loans. In a recent report, "Debt Burden Facing College Graduates," the Department seems to bolster its proposal with data showing that in 1986 college graduates spent an average of 4 percent of their income on student loan payments during the first year after graduation, down from 5.2 percent in 1977 -- the point being that graduates are not being overwhelmed by their monthly payments.

But in that study the Department uses data gathered before student loan limits were increased, and data on dropouts or students attending community colleges or proprietary schools was not included. These are the students who may have more trouble repaying their loans. Isn't it true that higher loan limits would adversely affect students' debt burden?

Answer: The loan limit increases proposed by the Department will focus additional loan funds primarily on upper-classmen attending 4-year schools and graduate students. As you noticed, student loan debt burden for borrowers who complete 4-year programs does not appear to be a significant problem. The Department is proposing modest increases in the heavily subsidized Stafford loans for first- and second-year students and no increase in the less subsidized SLS loans program for first-year students.

These proposals, while offsetting the erosion in real value of the current loan limits, would help keep student debt burden more in line with expected income -- especially for those students enrolled in shorter-term programs that generally lead to relatively low paying jobs.

Although the debt burden for borrowers completing four-year programs is low, we recognize that the debt burden of borrowers attending short-term programs needs to be addressed. The Department is proposing the following provisions to help students manage their debt exposure:

- Pro-rate loan awards for programs less than 1 year in length, a requirement that is already in effect in the SLS loan program.
- Require lenders to provide graduated repayment options to borrowers that would provide for repaying as little as accrued interest only, in the first year of repayment when income is generally the lowest.

## GUARANTEE AGENCIES--
## HIGHER EDUCATION ASSISTANCE FOUNDATION

Question: The Higher Education Assistance Foundation, or HEAF, formerly our largest guaranty agency in the student loan program, suffered serious financial problems last year. What is the status of the resolution of these problems?

Answer: The Department's top priority in handling the HEAF situation was to assure continued access to student loans. To assure continued access, the Department needed to resolve the HEAF difficulties before HEAF reached the point of financial collapse. HEAF's potential bankruptcy would have sent shock waves through the program, including undermining lender confidence in the program, diminishing student access to loans, and generating incalculable long-range costs for the Department.

To avoid these problems, the Department entered into an agreement with the Student Loan Marketing Association (Sallie Mae) to manage a wind-down of HEAF over 3 years, including the distribution of HEAF's portfolio to other guarantee agencies. The Department and Sallie Mae appointed a new HEAF board of directors and are monitoring the agreement. In addition, the Department has named other guarantee agencies for a 1 year interim period to guarantee new loans in States where HEAF had been the designated guarantee agency.

Question: Does the Department know what caused this financial crisis?

Answer: The Department has concluded that the HEAF situation was an outcome of HEAF's focus on increasing its share of the student loan market. In the mid-1980s, HEAF aggressively pursued a large volume of student loans at proprietary schools, which have had disproportionately high default rates. These high default rates required HEAF to pay for a larger share of its default costs. Once the agency's default costs exceeded revenues, HEAF's reserve fund was quickly depleted.

## FEDERAL COST TO MANAGE HEAF PORTFOLIO

Question: What will the HEAF crisis end up costing the Federal Government?

Answer: The Department contracted with the Student Loan Marketing Association (Sallie Mae) to take over the administration of the HEAF portfolio. Over the next several years, the cost of managing the HEAF portfolio is expected to be $30 million. Budget estimates were also revised to account for the cost to the Department of providing 100 percent reinsurance for the HEAF portfolio, much of which would have been reinsured at the 90 or 80 percent level. Over the next five years, the cost to the Department of providing Sallie Mae with the difference between what the portfolio would have been insured at had HEAF survived and 100 percent is estimated to be an additional $70 million.

Question: Are any other guaranty agencies financially unstable or do any currently face insolvency?

Answer: There is no other guarantee agency facing similar problems to those of HEAF. However, there are a few guarantee agencies experiencing what we believe are short term cash flow problems.

## AVOIDING FUTURE GUARANTEE AGENCY CRISES

Question: What can be done to avoid a similar crisis in the future?

Answer: We have proposed a number of legislative provisions in this budget to ensure the stability of the existing guarantee agencies and to improve the Department's oversight capabilities. For example, the Department proposes to:

- Require States with high default rates to pay a fee equal to the percentage the State's default rate which exceeds 20 percent.
- Require minimum reserve levels for agencies that are financially weak. If an agency's reserve ratio falls below a certain level, the Department would be authorized to impose a management plan that would include a means to increase that ratio.
- Terminate the guarantee agreement if an agency remains financially weak and fails to improve its administrative and financial condition.
- Require States to provide "full faith and credit" support to their designated guarantee agencies.
- Authorize the Secretary to assume guarantee agency functions. This would enable the Department to continue to ensure access in those States where a guarantee agency is no longer operating.
- Authorize Department access to guarantee agency financial information.

In addition to proposing the above legislative amendments, the Department has taken the following measures to ensure the stability of the guarantee agency system:

- The Department hired Kidder, Peabody and Company to develop a model that will provide the Department with an analysis of each guarantee agency's fiscal strength and an early warning when an agency is experiencing difficulties or is changing its behavior in a way that could affect its fiscal soundness.
- The Department will implement recommendations made by a joint ED/OMB panel to improve GSL management practices. Administrative procedures will be developed to anticipate potential guarantee agency failures. Departmental intervention and coordination with such agencies will occur early on to address problems. The increased oversight also includes stipulating minimum financial solvency requirements in agreements with guarantee agencies.

## IMPROVING GSL DATA BASE CAPABILITIES

Question: It's estimated that in fiscal year 1990 student loan defaults will cost about $2.4 billion, or MORE THAN 54 PERCENT of total program costs. GAO reports that students have received millions of dollars in loans over the legal loan limits, and loan defaulters may have obtained $109 million in new loans (1965-1988). GAO attributes these abuses in large part to inadequate internal Department controls.

Until the Department installs its new data system in 1993, GAO recommends that the Department improve its current data base to make it more accurate, and require guaranty agencies to use the data base before guaranteeing loans. What is the Department doing toward this end?

Answer: The Department collects selected information on each currently outstanding Stafford, PLUS, and SLS loan through the guarantee agency tape dump system. The detailed data is consolidated onto one set of tapes and stored in a tape library. The tape dump is not itself a database system which is available for interactive review and correction. It is a system which was developed to provide summary level program data and was therefore not designed to be used to prevent the making of loans to ineligible borrowers.

The tape dump is a static system which only reflects the GSL programs at a single point in time, September 30 of one fiscal year. The status of many borrowers changes over a 12-month period and the entire file is generally out of date and therefore unreliable as a loan guarantee screening device. Using the tape dump data to screen loan guarantee applications would result in the rejection of large numbers of guarantees which would, upon further investigation, be found to be valid based on actions which had occurred after the tape dump data was provided to the Department. To have an effective screening program which only rejects borrowers who are truly ineligible, the data provided to the guarantee agencies must be current. To meet this objective, the Department is developing the National Student Loan Data System, which will be designed to permit immediate, interactive updates.

This system could not be developed earlier because the Higher Education Amendments of 1986 specifically prohibited the Secretary from using the National Student Loan Data System to screen loan applicants. The Omnibus Budget Reconciliation Act for fiscal year 1990 finally removed this restriction after repeated requests for such authority had been made by the Department.

## GSL LIQUIDATING ACCOUNT

Question: In your budget for the GSL liquidating account you indicate that collections on defaulted loans will top $1 billion in fiscal year 1992, a $156 million increase over the fiscal year 1991 level. What will account for this increase?

Answer: The increase in estimated default collections is due to a projected increase in IRS tax refund offsets. The number of notices sent to borrowers this year exceeded last year's total by

60 percent. This is due to greater participation by guarantee agencies and larger numbers of accounts temporarily assigned by guarantee agencies to the Department.

Question: You include the $4.3 billion repayment of the Student Loan Marketing Association (Sallie Mae) to the Federal Financing Bank (FFB) due in fiscal year 1996 in the GSL liquidating account rather than the program account. Why?

Answer: The loan to Sallie Mae was made prior to fiscal year 1992. Therefore, as required by the Credit Reform Act, all activities related to the repayment of this loan are reflected in the liquidating account rather than the program account.

Question: Will these funds be available for obligation by the GSL program when they are repaid?

Answer: No. Repayments made by Sallie Mae to the Federal Financing Bank are displayed in the GSL liquidating account, but these repayments are not available for obligation in the GSL program.

## GSL PROGRAM ACCOUNT

Question: In determining the estimate for the GSL program account, what average U.S. Treasury bill rate did you assume for the life of the fiscal year 1992 loans?

Answer: For the fiscal year 1992 loans, the following T-bill rate assumptions were used to estimate the subsidy:

| Year | Rate (%) |
|---|---|
| 1992 | 6.3 |
| 1993 | 6.0 |
| 1994 | 5.8 |
| 1995 | 5.6 |
| 1996 and beyond | 5.5 |

Question: How many years does this apply?

Answer: It was assumed that there would be loans outstanding through the year 2004, a total of 13 years.

Question: How much of your subsidy calculation for Stafford Loans is attributable to special allowance costs?

Answer: Approximately 20 percent of the subsidy costs are attributable to special allowance costs.

Question: Is there any "slack" in your estimate for the GSL program account in case your economic assumptions or assumptions about defaults and collections are too low?

Answer: There is no "slack" in the estimate for the GSL program account. The subsidy estimate is based on the best available data and assumptions at the time of budget preparation.

The Credit Reform Act requires the annual re-estimation of subsidy costs for each cohort of loans. Based on the re-estimate, a separate request will be made for loans made prior to the budget year, if necessary, within the program account for each budget year.

### GSL FINANCING ACCOUNT

Question: What happens if the financing account runs out of money?

Answer: The GSL programs are mandatory programs. The Credit Reform Act specifically exempts the GSL programs from the requirement that appropriations be made in advance of new loan commitments and obligations. The subsidy for each cohort of loans will be re-estimated every year. If necessary, additional appropriations will be requested to cover obligations.

### INCOME CONTINGENT LOANS

Question: Repayments are beginning to kick in under the Income Contingent Loan program, such that the Department expects roughly $1 million in payments in fiscal year 1991 from prior year borrowers.

Because this is the first experience we've had with income-contingent loan payments, I'm curious what your initial findings are regarding the rate of default in this program in relation to others for which payments are not tied to income?

Answer: The Department has been conducting an ongoing evaluation of the Income Contingent Loan (ICL) program. The first phase of the evaluation focused mainly on whether the ICL funds have been distributed fairly and efficiently to students. The evaluation indicated that the distribution of funds has worked well.

A study of ICL repayments will begin in late Spring 1991. It will include, for the first time, analysis of a significant number of out-of-school borrowers with loans in repayment. A comprehensive study of repayments has not been feasible until now because ICL borrowers are not required to make income-contingent repayments until they begin the third year of the repayment period. The results of that study may be available later this year.

## HIGHER EDUCATION

### AID FOR INSTITUTIONAL DEVELOPMENT--STRENGTHENING INSTITUTIONS

Question: What is the award rate for applications under Part A of Title III of the Higher Education Act?

Answer: The fiscal year 1990 award rate for 2-year institutions under Part A was 42 percent. The award rate for 4-year institutions in the same year was 29 percent.

## ENDOWMENT CHALLENGE GRANTS

Question: Why does the proposed $10 million reduction in funding for the Endowment Challenge Grants for fiscal year 1992 -- a 57 percent drop in funding -- result in a decline of only 29 percent (from 21 to 15) in the number of institutions receiving these grants?

Answer: In any year in which the appropriation for endowment grants under Title III, Part C, does not exceed $10 million, the maximum allowable award is $500,000. The estimated number of awards shown for 1992 represents the maximum number of awards that could be made at the maximum award level of $500,000. The number of actual awards may be greater than that, depending on the number and quality of applications received, and on the award amounts requested.

Question: Are you proposing other changes to the Endowment Challenge Grant program?

Answer: For 1992, the Secretary will propose to add a new authority for an endowment challenge grant set-aside for historically black colleges and universities under Title III, Part C, as outlined in AMERICA 2000--An Education Strategy.

## HIGHER EDUCATION FACILITIES LOANS

Question: Facilities needs are estimated at beyond $50 billion. What, if anything, is the Department doing to address the decaying infrastructure at the Nation's colleges and universities?

Answer: The Administration does not support the provision of direct Federal financial assistance for academic facilities construction. The responsibility for financing the capital outlay needed to maintain the infrastructure of postsecondary educational institutions lies with colleges and universities themselves, State and local governments, taxpayers at those levels, private sector users and beneficiaries of higher education services, and the newly authorized College Construction Loan Insurance Association.

The Department established the College Construction Loan Insurance Association (Connie Lee) to provide reinsurance and direct insurance of higher education construction debt. Connie Lee has provided 400 higher education institutions with $3 billion in reinsurance of construction debt. Connie Lee has estimated a $100 billion need for construction, renovation, acquisition of buildings, infrastructure and science equipment at colleges and hospitals. The Association plans to provide $50 billion in primary insurance and reinsurance of construction debt over the next decade.

## OFFICE FOR CIVIL RIGHTS

## MINORITY SCHOLARSHIPS

Question: Last year the Department's Office for Civil Rights told colleges and universities receiving Federal funds that they could not administer scholarship programs based on race, and then said institutions could administer, but not fund such programs.

Under what conditions will institutions who receive aid under this subcommittee's jurisdiction be permitted by the Department to encourage minority attendance through the provision of minority-directed scholarships?

Answer: Secretary Lamar Alexander, during his Senate confirmation hearing on February 6, 1991, stated that he would review the subject of scholarships in which race or national origin is a factor and that he would consult with members of Congress, the higher education and civil rights communities, and other administration officials. On March 20, 1991, Secretary Alexander announced the process that the Department of Education will follow in conducting this review. This process will consist of gathering facts about existing financial aid programs in which race or national origin is a factor; requesting information and comments from interested parties; analyzing, in cooperation with the Department of Justice, the requirements of Title VI of the Civil Rights Act of 1964; publishing guidelines on how Title VI may affect financial aid programs in which race or national origin is a factor; and working with colleges and universities to help them make any adjustments that may be needed under the new guidelines without jeopardizing outstanding grants and loans. The Department will postpone any final decision on pending investigations concerning this issue while these guidelines are being formulated.

Question: What policy guidance is the Office for Civil Rights currently providing to higher education institutions on race-exclusive scholarships?

Answer: During the time guidelines on race-exclusive scholarships are being formulated, the Department is encouraging educational institutions and scholarship providers to continue what they are doing to provide financial assistance to minority and other students. When the Department announces the policy on how Title VI applies to financial aid programs, educational institutions and scholarship providers may wish to contact the Office for Civil Rights (OCR) for technical assistance. OCR will work with these institutions and scholarship providers to determine if any adjustments are required under the policy.

## EDUCATIONAL ATTAINMENT BY MINORITIES

Question: The minority population in the United States is growing, as is the importance of its success to the economic and social future of the Nation. But there continues to be a gap in the educational attainment of minorities. What is the Department doing to address this problem?

Answer: While there has been significant progress in narrowing the gap between minority students and others in achievement test scores and, for some groups, in graduation rates, a gap between their educational attainment and that of the majority persists. The Department of Education's programs, while not for the most part targeted on minority students, are heavily targeted on the educationally and economically disadvantaged. Black, Hispanic, and

Native American students are disproportionately represented among the disadvantaged.

Several Department programs aim to improve the educational attainment of the disadvantaged. Chapter 1 proposed funding for FY 1992 includes an increase of $119 million for services to children in counties and school districts with high poverty concentrations; it also includes an increase for the Even Start family literacy program, to reach greater numbers of low-income families with limited educational attainment. Minority students are disproportionately represented among our school dropouts, and the Dropout Prevention Demonstration program is examining the most promising strategies to keep young people in school; the Department has submitted legislation to extend this program through 1994.

The AMERICA 2000 education strategy includes several new proposals which can boost the attainment of minority students. These include the Merit Schools Program, differential teacher pay for those who teach in challenging settings, choice, and of course, the New American Schools. In selecting from among applicants for the new schools, AMERICA 2000 directs the Governors and the Secretary to ensure that many such schools serve communities with high concentrations of "at-risk" children.

Interestingly, many of the ideas which have shaped AMERICA 2000 have been generated or tested in heavily disadvantaged neighborhoods with large minority populations. These experiments, which "break the mold" of traditional education, were begun because educators, parents, and community leaders, sensing a crisis in the quality of education for disadvantaged children and youth, were motivated to look for new solutions.

## RACE- AND ETHNIC-EXCLUSIVE SCHOLARSHIPS

Question: Is the Office for Civil Rights currently investigating any complaints involving college scholarship programs for minority college students?

Answer: The Office for Civil Rights has seven complaints involving college scholarship programs for minority college students. These complaints are at various stages in the investigative process. The Department will postpone any final decision on these pending complaint investigations while formulating the guidelines on scholarships in which race or national origin is a factor.

## RACE- AND ETHNIC-EXCLUSIVE SCHOLARSHIPS--
## ADMINISTRATIVE DECISIONS AND FINDNGS

Question: Please provide the Committee with a list of the administrative decisions and letters of finding issued by the agency on race- or ethnic-exclusive scholarships during the past decade and what those decisions concluded.

Answer: The U.S. Department of Education's Office for Civil Rights (OCR) has issued several documents, going back more than a decade to 1970, relating to the subject of race-exclusive

## RACE- AND ETHNIC-EXCLUSIVE SCHOLARSHIPS--DECISIONS AND FINDINGS (continued)

scholarships. The following are brief summaries of those documents (in chronological order).

1. National Merit Scholarships (December 1970) (OCR Director's response to inquiry from U.S. Representative Chalmers P. Wylie). Although OCR found that the subject of the inquiry--the National Merit Scholarship Service--was not a recipient, the letter went on state the following:

> However, our office is aware that some institutions of higher education participating in Federal financial assistance programs have designated a small number of scholarships for minority group students, most often black. Scholarships of this type are in full accord with the objectives of Title VI if their purpose is to overcome the effects of past discrimination based on law or custom. I would note, however, that the appearance of minority group members in the institution's enrollment at some point may be such as to require the abandonment of the preference arrangement or its suitable modification.

2. 1972 Summary of Requirements of Title VI for Institutions of Higher Education (June 1972) (attachment to a memorandum from the Director of OCR to presidents of institutions regarding required postsecondary compliance reports). This document states, in pertinent part, that:

> The awarding of scholarships and other financial aid administered by the institution must be free of discrimination on grounds of race, color, or national origin. Financial assistance includes both public and private scholarships, fellowships, student loans, traineeship stipends and employment obtained by the institution for the student as part of an assistance program; e.g., teaching assistantships, work-study programs. Student financial aid programs based on race or national origin may be consistent with Title VI if the purpose of such aid is to overcome the effects of past discrimination.

3. Guidelines for Eliminating Discrimination and Denial of Services on the Basis of Race, Color, National Origin, Sex and Handicap in Vocational Education Programs (Guidelines), 44 FEDERAL REGISTER 17162 (March 21, 1979) (they also appear in Appendix B of the Title VI implementing regulation---34 C.F.R. Part 100). The Guidelines specifically prohibit recipients who operate vocational education programs from awarding financial aid on the basis of race absent a finding of past discrimination. Section VI. B. of the Guidelines provides that:

> Recipients may not award financial assistance in the form of loans, grants, scholarships, special funds, subsides, compensation for work, or prizes to vocational education students on the basis of race, color national origin, sex, or handicap, except to overcome the effects of past discrimination.

## RACE- AND ETHNIC-EXCLUSIVE SCHOLARSHIPS--DECISIONS AND FINDINGS
(continued)

Note that the "except" clause of this section of the Guidelines uses the language of 34 C.F.R. Section 100.3 (b)(6)(i), which addresses mandatory affirmative action, rather than the broader language of 34 C.F.R. Section 100.3(b)(6)(ii), which addresses voluntary affirmative action. The Guidelines went through formal rulemaking procedures, i.e., notice to the public, an opportunity for interested persons to submit comments, consideration of those comments, and publication in final in the Federal Register.

4. Massachusetts Institute of Technology OCR Case No. 01-80-2046 (March 24, 1982) (denial of a complainant's appeal). This case involved a challenge to a race-exclusive Minority Tuition Fellowship program. In its appeal response letter to the complainant, an OCR division director stated that it was improper to extend the Bakke decision on admissions to all race-conscious actions by universities, and that a pre-Bakke U.S. District Court case (Flanagan v. President and Directors of Georgetown College, 417 F. Supp. 377 (D.D.C. 1976)) that applied principles such as those in Bakke to strike down a race-conscious student financial aid program was not controlling because it was inconsistent with subsequent Supreme Court affirmative action decisions. The court's rationale for the refusal to extend Bakke to other race-conscious university programs was as follows:

> Admissions quotas, the policy at issue in Bakke, unlike many other policies, may result in the exclusion of an individual from a university on the basis of race or national origin. The availability of a particular financial aid program does not have such a far-reaching effect.

5. University of Denver, OCR Case No. 08-83-6001 (March 22, 1983) (policy memorandum to Region VIII from the Deputy Assistant Secretary). OCR concluded that three race-exclusive minority fellowship programs (one established by Congress and two established by private entities) administered by the institution were permissible, stating that "[we] do not believe that Bakke is controlling as to the award of student financial aid, as the decision addresses issues relating only to admissions." The memorandum states that the fellowship programs do not exclude non-minority applicants from admission on the basis of race, and that non-minority students may still qualify for seven other funding sources.

6. Dutch American Scholarships (May 2, 1986) (Response letter to a Dutch American organization from the Acting Assistant Secretary). In providing informal advice concerning the permissibility of scholarships provided by a Dutch American organization, OCR reaffirmed the applicability of the Bakke case to financial aid, and added: "I am not aware that Dutch Americans have been discriminated against or limited in their participation in federally financed programs."

## RACE- AND ETHNIC-EXCLUSIVE SCHOLARSHIPS--DECISIONS AND FINDINGS (continued)

7. Southwest Missouri State University (December 3, 1986) (Regional Office response to request for technical assistance). In assessing the permissibility of a proposed race-preference scholarship program at the university, OCR found that there was insufficient evidence to make a determination under either 34 C.F.R. Section 100.3(b)(6)(i) or (ii), or under section VI. B. of the Guidelines (*see* quote of this section of the Guidelines in item number five *supra*), because there was neither evidence of past discrimination by the university nor evidence of previous conditions at the university that limited the participation of minorities in university programs. The Regional Office quoted the Guidelines language stating that institutions could only award scholarships based on race to overcome the effects of past discrimination.

8. Dartmouth College (March 17, 1988) (Regional Office response to request for technical assistance). This case involved a proposed, privately funded, race-exclusive scholarship program. OCR recommended that the college not set up a race-restricted scholarship, and that the approach be changed to a program "weighted toward academic excellence, demonstrated financial need, and leadership potential."

9. David Lipscomb University, OCR Case No. 04-89-2021 (May 4, 1989) (Letter of Findings). This case involved two university-administered scholarships restricted to black students and one restricted to white students. In the past, blacks had been barred from attending the university. Another school had been established as an alternative for black students to attend. This school was sold in the 1960's and the proceeds of the sale were used to establish the two scholarships for black students. OCR found that the two scholarships for black students were permissible affirmative action under 34 C.F.R. Section 100.3(b)(6)(i) because they were established to overcome the effects of prior discrimination by the university. Conversely, OCR found that the scholarship for white students was impermissible under 34 C.F.R. Section 100.3(b)(6)(i) because the university had not discriminated against whites, and impermissible under 34 C.F.R. Section 100.3(b)(6)(ii) because conditions at the university had not resulted in limited participation by whites.

10. University of Colorado, OCR Case No. 08-89-2024 (September 28, 1989) (Letter of Findings). This case involved an allegation by a white female of discrimination in the university's administration of the Patricia Roberts Harris Fellowship program, a program established by the U.S. Congress to provide postgraduate financial aid for needy individuals from groups that are traditionally underrepresented in graduate and professional programs. The university limited eligibility for these fellowships to blacks, Hispanics, and American Indians. The limitation was based on historical enrollment data indicating that, while the included groups were traditionally underrepresented in the university's School of Medicine, white females were not. The university identified the high cost of matriculation as the condition that

limited participation by these groups in the School of Medicine. OCR found that the university's limitation of these scholarships by race was permissible.

## ELEMENTARY AND SECONDARY SCHOOL CIVIL RIGHTS SURVEY

Question: Please describe the current status of the Office for Civil Rights' ED101/102 surveys of schools and school districts.

Answer: The Elementary and Secondary (E&S) School Civil Rights Survey, conducted biennially, provides data for OCR to use in making preliminary targeting determinations for compliance review sites. Reported data for the 1988 Elementary and Secondary School Civil Rights Survey (School System Summary Report: ED101 and Individual School Report: ED102) are currently available. Data from approximately 3,500 school districts were due by February 28, 1991, under the 1990 Elementary and Secondary School Civil Rights Survey. Plans are underway for the 1992 E&S Survey to collect new data in October 1992. The OCR Task Force, formed to design the 1992 survey, met with the Education Information Advisory Committee of the Council of Chief State School Officers to discuss some proposed changes under consideration. OCR plans to meet with other outside groups to obtain their comments. In addition, OCR has developed a feasibility study, in conjunction with the National Center for Education Statistics, to examine the extent to which certain data are available for future E&S Surveys.

Question: Is delay in the preparation of the 1988 survey related to an allocation by the Department of survey funding to other uses in FY 1990?

Answer: The delay in the preparation of the 1988 E&S Survey was primarily the result of an insufficient appropriation for OCR in 1990. The funds available to OCR in 1990 were limited by two factors. First, a Gramm-Rudman-Hollings sequester reduced the OCR appropriation by approximately $600,000. Second, the 1990 pay raise for Federal employees had to be absorbed. This reduced funding resulted in OCR's curtailment of many civil rights program activities. Funding for surveys was deferred to future years; a hiring freeze was implemented; and all travel not directly related to the investigation of complaints was stopped. OCR ceased training activities that required tuition or travel money, canceled compliance reviews, and stopped all technical assistance that required the expenditure of funds. The insufficiency of funds in 1990 was so great that most aspects of the program, with the exception of complaint processing, were adversely affected.

Question: What assurances can you provide this Committee that these surveys will not be delayed in the future?

Answer: For 1992, OCR has requested $390,800 to complete the contractor activities related to the 1990 E&S Survey. OCR plans to request adequate funds in future years to undertake the E&S Survey. Currently, OCR is preparing an OMB clearance package to obtain approval of the data collection and has developed a schedule to award a contract to carry out the 1992 E&S Survey.

## OCR COMPLIANCE REVIEWS

Question: Why isn't the Department requesting sufficient funds to restore the compliance review effort of the Office for Civil Rights to its FY 1989 status?

Answer: OCR has requested 35 additional FTE in 1992 in order to conduct more compliance reviews. Despite a reduction in the number of reviews from earlier years, OCR is concentrating its efforts toward increasing the impact of its compliance review program through the National Enforcement Strategy. OCR's focus in the future will not only be on quantity of compliance reviews, but the quality and impact of compliance reviews.

Question: Doesn't a drop from 178 compliance reviews in FY 1989 to an estimated 25 in FY 1991, and an estimated 55 in FY 1992 seriously circumscribe the agency's ability to detect emerging patterns of discrimination and utilize its resources more forcefully than is possible investigating individual complaints?

Answer: Although OCR will be conducting fewer compliance reviews in the future, it is our intention that the compliance reviews that we do conduct will be more substantial and have a greater impact than many of the more narrowly focused compliance reviews in the past. OCR will, based on survey data and other indicators, target those areas where there are potential problems of compliance with civil rights laws where compliance reviews will have the greatest impact. Our focus in the future will not only be on quantity of compliance reviews, but the quality and impact of compliance reviews.

## COMPLAINT INVESTIGATIONS

Question: How many complaints outstanding does the Office for Civil Rights currently have?

Answer: As of April 30, 1991, OCR had 1,393 complaints pending.

## *ADAMS* COURT ORDER

Question: What effect has the termination of the *Adams* court order had on the Office for Civil Rights?

Answer: The termination of the *Adams* order has given OCR the flexibility to modify the timeframes for processing complex, high-impact compliance reviews involving the analysis of such large quantities of data that they could not be completed under the *Adams* timeframes. However, for most complaints, OCR has chosen to investigate the allegations within the overall timeframes established by the court order. OCR's regulations require the agency to "...make a prompt investigation whenever a compliance review, report, complaint, or any other information indicates a possible failure to comply..." with the civil rights regulations

[34 CFR 100.7 (c)]. OCR is committed to ensuring that all complaints receive a "prompt" investigation, as required by the regulation.

## OFFICE OF THE INSPECTOR GENERAL

### DELAYS IN REGULATIONS PROCESSING

Question: GAO recently noted that on average it takes the Department almost 600 days to issue regulations after legislation is signed into law. By statute, the Department is required to review legislation and publish regulations within 240 days -- a requirement that I understand is rarely met. Have you made any recommendations for eliminating delays?

Answer: Because the GAO only recently completed its review of the Department's process for issuing regulations, we have not initiated further work in this area, and thus have not made any additional recommendations.

Since correction of many abuse-related problems uncovered in our audit, investigative and inspection work requires changes to Departmental regulations, we are concerned over the length of time currently required to effect needed regulatory changes.

### CHIEF FINANCIAL OFFICERS ACT

Question: I understand that the Chief Financial Officers (CFO) Act passed last Congress requires agencies to create a CFO position and to establish better reporting, auditing and financial management systems for agency activities.

Mr. Secretary, what has the Department done to date to implement the provisions of the Act?

Answer: The President has indicated that Ted Sanders, who has served as the Department's Deputy Secretary for the last two years, will be the Chief Financial Officer. As required by the CFO Act, he will report directly to me on financial management matters. I have also recently selected Mitch Laine, who has been the Assistant Inspector General for Audit for the last ten years, to be the career Deputy Chief Financial Officer.

The Department will be submitting its proposal for organizing internal financial management activities to the Office of Management and Budget by the end of the month. Staff work has already begun on other required tasks, such as developing audited financial statements. Our budget requests for Program Administration and the Office of the Inspector General include staff and funding to support the new responsibilities included in the CFO Act and to continue ongoing improvements in our accounting systems.

## EFFECTIVE CLOSE OUT OF EXPIRED GRANTS

Question: Mr. Thomas, I have a copy here of the Final Audit report concerning the Department's financial and administrative processes for closing out discretionary and formula grants.

Your report indicates that, as of June 30, 1990, there was a balance of over $665 million in unexpired grant funds, including some student financial assistance awards. As I understand it, this balance is carried over from year to year as part of the Department's budget, and the funds are neither returned to the U.S. Treasury nor disbursed to recipients as intended.

Your audit concludes that the Department's current grant management system for tracking awards is inadequate and must be improved in order to reduce the risk of a misuse of these funds.

In your view, has the Department made some progress in adopting your recommendations regarding a strategy for improving the financial management system?

Answer: While the Department's response to our final report recommendations is not due until later this year, I can assure you that the Department is making progress and continues to make progress in addressing both the financial and the administrative aspects for closing out grants. The Department will probably be aided in this by implementation of the new account closing legislation contained in Public Law 101-510, the 1991 National Defense Authorization Act, which requires cancellation of the oldest balances of grant funds that have previously been carried as obligated balances. Grant recipients will now have less time to claim payment for their Federal grant awards.

In response to our recommendation that timely financial closure is needed to deobligate millions of unexpended grant funds, officials in the Department's Financial Management Service (FMS) have informed us that an automatic suspense feature of the accounting system, which closes out and deobligates unliquidated balances of expired grants, started functioning in March 1991. As a result, action has been initiated to deobligate $300 million for 25,000 awards with expiration dates exceeding 18 months. Over 100 of these grants have since been reinstated because grantees whose unexpended balances were canceled produced documentation for valid Federal obligations. Special reports listing grants with expiration dates exceeding 120 days will be provided to the program offices for their review to help ensure accountability for these funds.

In response to our recommendation that discretionary grants need to be systematically closed, officials in the Department's Grants and Contracts Service (GCS) have informed us that action is being taken to close out the backlog of grants and to close out grants on a more timely basis. The closures will be coordinated with the program offices and the Financial Management Service for performance and financial closing reports, and temporary staff will be hired to help complete the task and eliminate the backlog.

## STUDENT LOAN MANAGEMENT REFORM RECOMMENDATIONS

Question: You have identified the student aid program areas vulnerable to fraud and abuse. What recommendations for reform would you make beyond those contained in the Department's proposals for FY 1992?

Answer: In addition to recommendations for reform of the student aid programs included in the Department's fiscal year 1992 proposals, the following are among the more important initial reform ideas resulting from our extensive audit and investigative work related to the Higher Education Act Title IV programs. We are now refining our recommendations in these and other areas and will present our final reform recommendations in our scheduled testimony before the House Subcommittee on Postsecondary Education in late May.

1. The mechanism for ensuring SFA program quality must be strengthened.

Currently, the Higher Education Act (HEA) does not require that any entity ensure the quality of programs that are eligible to participate in Federal student assistance programs. While programs must be licensed by the State and accredited by a recognized accrediting body, no clear standards exist for ensuring that State licensure or accreditation guarantee the quality of an instructional program. The Higher Education Act should be amended to assign to specific participating entities the responsibility for ensuring the educational quality of programs admitted by the Department to participate in the student financial assistance programs.

2. Changes should be made to strengthen oversight of/and limit abuses by lenders, guaranty agencies, secondary markets and servicers.

Current law is inadequate with regard to audit coverage of major entities participating in the student assistance programs. For example, audits required of the Student Loan Marketing Association focus only on financial matters, but disregard program compliance. Currently, such audits must be transmitted to the Secretary of the Treasury instead of to the Secretary of Education, who is charged with administering the HEA Title IV programs. Current law requires audits only of those secondary markets financed from tax-exempt sources, but overlooks those authorities using taxable or State financing.

While schools, lenders, guaranty agencies and secondary markets often contract with servicers to perform functions ranging from student financial assistance application processing and cash management to origination and collection of loans, current law requires no audit coverage for servicers. Legislative changes should be made to ensure full and proper audit coverage of all major participants in the Title IV programs.

## STUDENT LOAN MANAGEMENT REFORM RECOMMENDATIONS (continued)

3. Foreign schools should be barred from participating in the HEA Title IV-B programs, and participation by correspondence schools in all Title IV programs should be strictly controlled or eliminated.

The sovereignty of foreign governments prevents imposition of requirements to ensure effective administration of student loan programs by foreign schools, thus there can exist no means of ensuring the quality of education provided or proper administration of loan programs by foreign institutions.

Similarly, the nature of correspondence schools makes it difficult, if not impossible, to ensure that such schools provide high-quality, effectively administered programs. Thus, unless adequate controls can be legislated to allow effective control of correspondence schools, such institutions should be barred from participation in the Title IV programs.

4. Current law should be amended to require that the agency relationship between a school and a lender be clearly defined in cases where the school submits a loan application to a lender for a student.

Currently, virtually all loans to proprietary trade school students are made without the student ever setting foot in the bank that makes the loan. Instead, the school itself chooses the lender, oversees the paperwork, and makes the only disclosures that are made to the student before the student signs the loan application form. The result is that, in many cases, inadequate disclosures are made to a student by school employees eager to enroll that student. Further, if the school provides inadequate educational services, fails to make refunds, closes before the educational program is completed but after any portion of the tuition is earned and the loan disbursed, or otherwise acts to the detriment of the student, the student generally still is liable for repayment of the loan, and will be pursued by collection agents. However, a student generally cannot assert inadequate disclosure against the lender or other holder of the student's loan, because there is no agency or "origination" relationship between the bank and the school, despite the fact that the bank and school work in tandem, for their mutual financial benefit, to induce the student to take the loan.

## MANAGING A DIRECT LOAN PROGRAM

Question: Based on what you know about the Department's present management of student loan programs, do you think that the Department would be able to manage a direct loan program, one where we loan to students directly from the Federal treasury?

Answer: Certainly a direct loan program could work if proper management controls and necessary resources were provided. Our experience in reviewing the Department's management of the current student loan programs has identified major deficiencies related to internal controls, information and accounting systems and inadequate authorities to effectively administer these programs. Such deficiencies have also been identified by GAO and OMB. Until such problems are corrected, and until we are able to examine the nature of management and controls and resources intended for a new direct loan program, we would be unable to express an opinion regarding whether the Department could manage such a program.

## OTHER VULNERABLE PROGRAM AREAS

Question: In addition to the student aid areas, what other vulnerable program areas have you found in the Department, and what steps are you taking to address those?

Answer: The following are other vulnerable program areas within the Department:

Program Monitoring: The Department provides billions of dollars in financial assistance for education throughout the country. However, as the Department itself reported in its 1990 Federal Managers Financial Integrity Act (FMFIA) Report to the President and the Congress, not enough has been done to monitor the formula and discretionary grants to ensure that recipients are complying with grant terms and conditions, properly accounting for these Federal funds, and focusing on educational achievement for target groups.

During the past year we conducted an audit of the process used by the Department to monitor the use of funds awarded to State agencies for Chapter 1, special education, vocational rehabilitation, and vocational education programs. We plan to issue a draft report on the results of this review by the end of June. Primarily, this report will focus on the use of on-site reviews and data collection from State agencies. Our planned audit work for fiscal year 1992 will include assessment of monitoring efforts that State agencies exert over their sub-recipients.

Discretionary Grant Awards: The Department's December 1990 FMFIA Report stated that the Department "awards approximately $1.5 billion in discretionary grants each year, and in a rush to meet deadlines, poorly defined grants may be awarded and deficiencies in some projects may not be fully addressed."

During 1992, we are planning to conduct an audit to determine whether discretionary grants are awarded in a manner consistent with Department regulations, to determine whether evaluation personnel (field readers) are chosen and assigned to proposals in a manner which assures an objective review of all the proposals, and to determine whether controls of the monitoring of discretionary grants are adequate to ensure that recipients are complying with grant terms and conditions.

Contract and Grant Close-out Procedures: We recently issued a report recommending improvements in the Department's processes for closing out grants. Our review found that the Department needed to deobligate millions of dollars in unexpended balances of expired grant awards to reduce the risk of inappropriate draws and misuse of funds by grantees. Also, we found a need to implement a systematic process for closing out discretionary grants -- other than the mass close-out process disclosed by our audit as current practice.

## OTHER VULNERABLE PROGRAM AREAS (continued)

We recently reviewed the Department's contract close-out procedures and plan to issue a draft report by the end of June. Also in the area of contracts, we have contracted with CPA firms to perform contract close-out audits to reduce excess obligations. In addition, in 1992 we plan to conduct audits of grant and contract recipients, particularly large dollar recipients with limited prior audit coverage.

Financial Information and Accounting Systems: The Department's 1990 FMFIA Report identified a need to improve the Department's financial systems. Specifically, the Department reported that it was not yet able to produce auditable financial statements, as required by the newly passed Chief Financial Officers (CFO) Act.

Even though auditable financial statements are not yet in place, there are various steps our office can or must take in this area. As required by the Chief Financial Officers Act, we are in the process of setting up a staff to review the financial statements of the Department's revolving funds, trust funds, and commercial-type activities. During fiscal year 1992, we plan to conduct balance sheet audits of the Higher Education Facilities Loans, College Housing and Academic Facilities Loans, College Housing Loans, and Contributions accounts. Also, in conjunction with the GAO, preliminary work will begin in 1992 for the audit of the Guaranteed Student Loans program. In total, we have requested 7 full-time equivalent employees and $1,589,000 for CFO activity by the OIG [illegible] 1992.

Also in the area of financial management, our existing internal audit staff is scheduled during 1992 to audit the Department's grants and contracts management system.

Audit Follow-up and Corrective Actions: The Department's 1990 FMFIA Report identified the need for improved follow-up to assure that recommended corrective actions actually take place.

The Department has taken several steps to improve the processes for assuring that audit follow-up is timely and appropriate and that needed corrective actions are taken. One of the most significant actions has been the creation of the Internal Control and Audit Follow-Up Committee, which is comprised of the Deputy Secretary, the Deputy Under Secretary for Management, the General Counsel, the Inspector General, and other principal Department officials.

Other actions our office has taken to address audit follow-up and corrective action vulnerabilities include assessments of Department systems for responding to audits. In September 1989 we issued a report on the Department's internal audit follow-up system. We recommended actions to ensure that all audit reports were entered in the system and to ensure that corrective actions were taken on closed audit reports.

We currently have an ongoing audit of the processes used by the Department to resolve and follow up on audits involving the student aid programs.

## OTHER VULNERABLE PROGRAM AREAS (continued)

Other Vulnerable Programs: Other areas we have identified as vulnerable include the Department's Chapter 2 and bilingual education programs. We have work ongoing in these programs, and we plan to expand our audit work of the Chapter 2 and bilingual education programs to include additional entities in the coming year.

We also plan to conduct audits of programs that promote the National Education Goals. We expect these programs will receive additional attention and additional funding in the coming years. To this end, we have already begun work in the Department's math and science, magnet schools, and drug education programs. As in the past, we are interested in assessing whether controls are in place to ensure accountability of Department funds.

Program Evaluations: In addition to on-site reviews and data collection activities, which are the monitoring tools or processes examined during our monitoring audit, we have identified program evaluation as an instrument that, if used effectively, can provide the Department with information needed to assure that programs are meeting intended goals. However, we have indications that requirements for conducting evaluations are not always met by grant recipients, and that information contained in program evaluations may have room for improvement. Thus, during 1992, we plan to examine the Department's administration of program evaluation requirements.

## PLANNED AREAS FOR CONCENTRATION IN 1992

Question: Please highlight for us those areas on which you plan to concentrate over the next year.

Answer: We plan to concentrate on the following vulnerable areas during fiscal year 1992:

Program Monitoring: Our planned audit work for fiscal year 1992 will include assessment of monitoring efforts that State agencies exert over their sub-recipients.

Discretionary Grant Awards: During 1992, we plan to examine the Department's processes for monitoring discretionary grants. In addition, we plan to conduct audits of grant and contract recipients, particularly large dollar recipients with limited prior audit coverage.

Other Vulnerable Programs: We plan to expand our Chapter 2 and bilingual education audit work to include additional entities.

Program Evaluations: During 1992, we plan to examine the Department's administration of program evaluation requirements.

## FULL-TIME EQUIVALENT EMPLOYMENT

Question: Congress provided funding for FY 1991 for an additional 30 FTEs to increase investigations into fraud and abuse in student aid programs. For FY 1992, the Department has requested an additional 7 FTEs, but they would be assigned specifically to conduct audits of the Department's financial statements as required by the Chief Financial Officers Act of 1990. So no additional FTEs are requested for general investigations. At 360, have we reached the optimal level of FTEs?

Answer: The current 360 FTE, plus the 7 additional FTE requested for 1992, is the FTE level the Department considers reasonable -- in the context of its budget priorities and current Federal budget constraints -- to address the Department's audit and investigation requirements. In my judgment, as Inspector General, complete audit and investigation coverage of all Department programs and activities would require approximately 200 more FTE. With the 367 FTE we are requesting in 1992, we will continue to focus our efforts on the most critical areas, particularly student financial assistance programs, as well as conduct audits required by the Chief Financial Officers Act.

It is crucial to note that, while FTE numbers are very important, budgeted dollar resources needed to support those FTE are even more important. This includes resources not only for personnel compensation and benefits, but also for key discretionary items such as travel, training, rent, and ADP support. Without a budget adequate to properly support the FTEs authorized, our staff is effectively reduced when the FTE ceiling cannot be attained because "salary" dollars must be used to pay for such things as increased rental and travel costs.

Question: Rather than increase the FTEs in the Inspector General's office, does it make more sense to increase FTEs in program management in areas where abuse is rampant -- student aid, for instance -- and stop abuse before it starts?

Answer: As already indicated, we have carefully analyzed our need for resources. We have not analyzed the resource needs of the program offices. That is the responsibility of those offices and ultimately the Secretary. Certainly, adequate program management helps minimize program abuse; however, it is also essential to maintain an effective audit and investigative program in the OIG to provide independent and objective oversight of Departmental programs and activities.

## CHIEF FINANCIAL OFFICERS ACT OF 1990--AUDIT REQUIREMENT

Question: The Chief Financial Officers Act (CFOA) of 1990 requires the OIG to audit the Department's financial statements. Has the OIG begun this process for FY 1991?

Answer: The OIG has begun the process for hiring additional staff (4 to be on-board by the end of fiscal year 1991), planning for the procurement of contracted audit services, and coordinating activities with the Department.

The Chief Financial Officers Act requires the OIG to conduct annual audits of the financial statements of the Department's revolving funds, trust funds, or commercial-type activities. The first audits will be performed in fiscal year 1992, covering financial statements from fiscal year 1991 operations. While it is the OIG's responsibility to conduct the required audits, the GAO, at its discretion, may choose to do the audits. Waivers are allowed for 1991, the year implementation of the Act begins.

For the financial statements for fiscal year 1991 operations, the OIG plans to conduct balance sheet audits for the Higher Education Facilities Loans, College Housing and Academic Facilities Loans, College Housing Loans, and Contributions accounts. The largest program affected by the Chief Financial Officers Act, the Guaranteed Student Loans program, will be audited by the GAO for fiscal year 1991 with OIG assistance.

## FTE REQUIRED TO MEET CFOA AUDIT REQUIREMENT

Question: What was the OIG's recommendation to OMB on additional FTEs it would require to conduct this audit required by the Chief Financial Officers Act (CFOA) of 1990?

Answer: The OIG recommended 14 additional staff members in fiscal year 1992, in addition to funds for contracting audit services. Four staff members would be hired before the beginning of fiscal year 1992, and 10 more would be hired in the fourth quarter of fiscal year 1992, resulting in full-time equivalent (FTE) usage of less than 7 FTE for the year ((4 staff + (10 staff x 1/4 year) = 6.5 FTE). In fiscal year 1993, this staff level would generate a usage level of 14 FTE.

## GUARANTEED STUDENT LOANS DATA BASE

Question: It's estimated that in FY 1990 student loan defaults will cost about $2.4 billion, or MORE THAN 54% of total program costs. GAO reports that students have received millions of dollars in loans over the legal loan limits, and loan defaulters may have obtained $109 million (1965 - 1988) in new loans. Abuses are attributed by GAO to inadequate internal Department controls.

Until the Department installs its new data system in 1993, GAO recommends that the Department improve its current data base to make it more accurate, and require guaranty agencies to use the data base before guaranteeing loans. What can you tell us about how the Department is following up on GAO's recommendations?

## DEPARTMENT RESPONSE TO GAO DATA BASE RECOMMENDATIONS

Answer: Generally, the Department agreed with GAO's findings published in its December 1990 report "STAFFORD STUDENT LOANS, Millions of Dollars in Loans Awarded to Ineligible Borrowers," but did not agree with the GAO's recommended corrective actions.

The Department agreed to and implemented the recommendations which were under their immediate control. The current status of each of the recommendations is as follows:

The GAO recommended that the Department develop an interim system until the National Student Loan Data System (NSLDS) is in operation in 1993. The Department believes that developing new interim data collection and reporting requirements is too costly and time-consuming, considering that the NSLDS should be operational by 1993. Currently, as part of its monitoring of the program, the Department each year collects loan information from guaranty agencies and consolidates this information into a loan data base, commonly referred to as the tape dump.

The GAO report noted that the Department's FMFIA Report showed that, while certain aspects of the student loan program were identified as having weaknesses in internal controls, the data base had not been reported under the Act. The OIG verified that the Department reported a material weakness under Section 2 of the FMFIA for fiscal year 1990. Critical milestones in corrective actions planned and completed were reported. Each action was based on the development and implementation of the NSLDS.

GAO recommended that the Secretary direct guaranty agencies to ensure that their student loan data are as accurate and complete as practical, with special emphasis given to data on defaulted borrowers, and to provide updated information to the Department. The Department has reported that it has directed the guaranty agencies to ensure that their tape dumps are correct, particularly with respect to borrower loan status.

GAO also recommended that the Department correct the information in the current data base, identify students who have defaulted on loans, require guaranty agencies to review their student loan data before guaranteeing new loans, and to use the information to stop and recover Federal interest payments on loans obtained by defaulted borrowers. The Department does not believe that the tape dump, due to its static nature, is appropriate for preventing defaulters from obtaining loans or for stopping Federal interest payments. Due to the lengthy clearance process and both time and cost of contract development for changes to the tape dump, the Department plans no action on this recommendation.

Since 1984, the Department has provided guaranty agencies with an annual cross-match report on an agency's borrowers who have loans guaranteed by other agencies. This information can be used by the guaranty agencies to verify loan documents, prior to taking appropriate action.

## DEBARRED AND SUSPENDED INDIVIDUALS OR ENTITIES

Question: In fiscal year 1990, investigations of the OIG lead to 44 individuals or entities being debarred from doing business with any Government agency. That is an increase of 159 percent over the prior year (up to 44 from 17). What is the nature of these entities?

Answer: There were 42 entities suspended or debarred during the period 4/1/90 - 3/31/91, as shown in the Semiannual Reports. The nature of these entities is as follows:

| | No. |
|---|---|
| **Debarments:** | |
| School owners/presidents | 13 |
| Key school employees | 14 |
| Certified public accountants | 2 |
| Student loan servicers | 1 |
| Subtotal | 30 |
| **Suspensions:** | |
| School owners/presidents | 10 |
| Key school employees | 2 |
| Subtotal | 12 |
| Total | 42 |

Question: To what do you attribute this dramatic increase in the number of entities debarred?

Answer: The increase in suspension and debarment actions by the Department can be attributed to its aggressive "start-up" of the referral process and to the Department's willingness to take action. Some time was required to fully implement the Government-wide suspension and debarment regulations that became effective in October 1988. A large number of cases were awaiting action when these regulations and implementing procedures became effective. Since October 1, 1988, we have made 144 referrals for suspension/debarment actions and are now referring only new matters uncovered by our audit, investigative, and inspection activity.

## AUDIT AND INVESTIGATION-RELATED RECOVERIES

Question: Mr. Thomas, please update us on the nature and amount of your recoveries for fiscal year 1990, compared to 1989.

Answer: Each semiannual period, OIG reports audit and investigation-related recoveries. Audit and investigation-related recoveries are funds returned by recipients to the Department or to third parties such as lenders and students, as a result of an OIG audit or investigation. The term investigation-related recoveries does not include court-ordered fines, restitutions, or civil judgments. In the last two fiscal years we have reported the following audit and investigation-related recoveries:

Recoveries (in millions of dollars)

| Fiscal Year | Audit-Related | Investigation-Related | Total |
|---|---|---|---|
| 1989 | $42.2 | $.7 | $42.9 |
| 1990 | 40.5 | 17.7 | 58.2 |

In addition, during the first half of fiscal year 1991, the Department has recovered $32.1 million in audit and investigation-related debts.

## OIG HOTLINE

Question: What has the Office of the Inspector General (OIG) done to promote the use of its "800" number for reporting fraud, and has it found this service to be a useful investment?

Answer: A number of publications issued by our office and by Department program offices include the Hotline number -- 1-800-MIS-USED -- and an accompanying statement about when and how to use it. These materials are distributed to specific target audiences and are also made available to the general public, and may be displayed for information and reference by recipients. Among these publications are:

- Our "Special Fraud Alert for Schools, Lenders, and Guarantee Agencies," which was distributed to over 27,000 participating institutions nationwide;
- All of our "Inspector General Integrity Guides," which cover subject areas such as contracts and grants, guaranteed student loans, and internal control;
- The Inspector General SPOTLIGHT, a digest version of the Semiannual Report to the Congress;
- The pamphlet, "Introducing the Office of Inspector General,"; and
- Our Semiannual Reports to the Congress.

The Department has included the Hotline number in its "Student Guide" to student financial aid programs, and on student aid applications. In addition, the Department has distributed stickers with the Hotline number to be placed on employees' telephones.

The "800" Hotline number serves both as a mechanism for reporting to the OIG information about possible fraud or abuse in Department programs or operations, and as a consumer information service. The Hotline enables the public to voice their concerns or pose questions regarding Department functions and activities, often acting as a referral service for questions that are more appropriately the domain of other Department or State education offices. In the six-month period ending March 31, 1991, for example, the OIG Hotline handled 5,018 telephone calls and 363 letters. Of these, 59 were assigned Hotline case numbers and referred, either to the applicable program office or to OIG Audit or Investigation Services, for review and appropriate action. The remainder were: requests for information that were referred to program offices for response; information related to existing investigative cases, that was forwarded to the OIG Investigation Service; inquiries for which we were unable to provide assistance or for which we recommended other sources; and a small number of miscellaneous requests.

# QUESTIONS SUBMITTED BY SENATOR ARLEN SPECTER

## AMERICA 2000--NEW AMERICAN SCHOOLS DEVELOPMENT CORPORATION

Question: The New American Schools Development Corporation will bring together teams from corporations, universities, and school innovators. Each of these groups have strong, often conflicting, beliefs on how schools should be improved. What makes you think these groups will somehow reach a consensus?

Answer: We are not expecting all of the teams to reach a consensus on the design of a new school. We do expect that the members of an individual team will know enough about their ability to work together and their vision of a new school before they bid for one of these research and development awards to ensure that the funds will not be wasted. We are not expecting that this research and development effort will yield a limited number of "models" for a new generation of schools. They will each create a design or designs that can be implemented as is or modified or otherwise improved upon to meet the unique needs and circumstances of the local community supporting the school.

## JOB SKILLS AND COMMUNITY SKILL CLINICS

Question: Mr. Secretary, how much Federal support are you requesting to set up these skill clinics? Will private industry also be contributing to these assessment centers?

Answer: Skill clinics, proposed as a part of the AMERICA 2000 strategy, will be centers in large communities and workplaces, including many Federal agencies, where people can go to get their job skills evaluated, find out what skills they need to learn to hold or get a better one, and find out where they can go to gain those skills. No separate funds are requested in the budget at this time, although Federal agencies, working with the Office of Personnel Management, will be encouraged to set up skills clinics to upgrade their employees' skills. Most agencies, such as the Department of Education's Horace Mann Learning Center, already have training activities which can be focused and expanded to include these kinds of diagnosis and referral services. Therefore, we might spend relatively small amounts of money from our salaries and expenses accounts on new skills clinic activities in Federal agencies.

The Administration will urge businesses to make skill clinics available to their employees, and AMERICA 2000 Communities will also be encouraged to establish community clinics. Thus, private industry and other parts of the communities will be contributing most of the costs of the clinics.

## VOCATIONAL AND ADULT EDUCATION--TRANSITION TO WORK

Question: The Department of Education and Labor have common responsibilities for preparing youth and young adults for work. In last year's Senate Report $1 million was included for interagency projects relating to school-to-work transition. How do you expect these funds will be used?

Answer: The Department expects to provide $2.5 million for school-to-work demonstration programs in 1991 and has requested $2.5 million for this purpose in 1992. These demonstrations will test approaches used in vocational education programs, such as apprenticeships, cooperative education, and on-the-job training, that have potential to bridge the school-to-work gap. All projects will be required to have the active cooperation and involvement of business, industry, and labor in their design and operation. A strong emphasis would also be placed on integrating academic and vocational education skills.

## COORDINATION OF VOCATIONAL TRAINING PROGRAMS

Question: Should the occupational training functions of the Department of Education and the workforce training function of the Department of Labor (DOL) be merged?

Answer: Although there is some overlap between the vocational education programs operated by the Department of Education and the training programs within the Department of Labor, the two programs have distinct functions. The primary function of ED's vocational education programs is to provide both academic and vocational training that students to function in the world outside of school. The recently passed Perkins Act, with its emphasis on integrating academics with vocational training, underscores this principle. The occupational training programs within the Department of Labor focus more narrowly on training individuals in the skills needed for an occupation; academic instruction is provided in the context of what is required to master a particular occupational skill. We work closely with DOL to coordinate aspects of our programs that address similar occupational training issues.

## BUSINESS EDUCATION PARTNERSHIPS

Question: Given the importance of linking businesses with educational institutions, why is the Administration proposing to level fund the Business Education Partnership program?

Answer: The Department's 1992 request for the Workplace Literacy Partnership program is $19.3 million, the same as last year's level. We believe, however, that the request for this program, in conjunction with approximately $6 million of our request for Vocational Education National Demonstration projects, which we plan to set aside for School-to-Work Transition projects and Business and Education Standards projects, reflects the importance the Administration places in supporting activities that link business with education.

The President's AMERICA 2000 strategy also places a premium on working with the private sector to improve educational programs and outcomes. The strategy calls for the establishment of world-class standards and core proficiencies for each industry and the creation of business and industry skill clinics where adults can receive skill diagnosis and referral services. The Department, along with the Department of Labor, will be actively pursuing these initiatives during the next year.

## OFFICE OF TECHNOLOGY ASSESSMENT REPORT

Question: A recent report by the Office of Technology Assessment argues that many successful and innovative vocational education programs are operating at the State level and that the Federal Government should increase support for the States to expand and better integrate these programs. The same report also urged increased attention to research and technologies on adult learning. Secretary Alexander, what do you think of these recommendations? What is your opinion on this issue?

Answer: I agree that there are many successful and innovative programs operating at the State level and believe that the Federal Government is already providing significant support to States to expand and improve these programs. For example, the recently passed Perkins Act focuses on emerging technologies by:

- Allowing and encouraging States to implement such courses as principles of technology, applied mathematics, applied physics, and applied biology;
- Placing a major focus on integrating vocational and academic education so that students have a better understanding of the technological principles that underlie their vocational training and have the intellectual grounding to adapt to changes in technology;
- Encouraging States to adopt strategies that increase cooperation between business and vocational education so that training is available for new technologies emerging in business and industry; and
- Authorizing and encouraging tech-prep education programs that provide for secondary and postsecondary institutions to work in partnership.

## OFFICE OF CORRECTIONAL EDUCATION

Question: Last year, at my request, language was included in the fiscal year 1991 conference report, directing the Department of Education to use $125,000, and devote 3 full-time positions for the establishment of an Office of Corrections Education. What is the status of this office? Has it been established? Is it fully staffed? Has all of the $125,000 specified in the Committee report been spent for this purpose? If not, when do you plan to carry out the Committee's directive?

Answer: On April 30, 1991 the Department formally established the Office of Correctional Education within the National Programs Division of the Office of Vocational and Adult Education. A Director for the office has been hired and the Department is in the process of recruiting two additional full-time staff for the office.

## EDUCATION PROGRAMS FOR THE INCARCERATED

Question: As you know, States are required to use 10 percent of their adult education State grants for corrections education and education for other institutionalized individuals. Most States use this set-aside for mental health institutions rather than for prisons. States are also required to use one percent of their vocational education basic grants for corrections education. Last year, I asked Secretary Cavazos to carefully monitor the use of these funds with respect to the set-asides for corrections institutions. What has the Department found out? How are these funds being spent?

Answer: Funds set aside for corrections education programs under Vocational Education Basic State Grants have been used for purchasing equipment, materials, and supplies and providing instruction. Based on 1989 program data (the last year for which actual data are available), activities supported by this program have included assessment of individual academic and vocational training needs, instruction in basic skills, and training in over 100 different occupational areas. In 1989, approximately 84,700 people were enrolled in vocational education programs for criminal offenders; 48,100 were in secondary-level programs and 36,600 were in postsecondary and adult-level programs.

State data from 1989 for Adult Education State Grants indicate that about 257,100, or 15 percent, of the individuals served through the State set-aside for programs operated in correctional institutions and other kinds of institutions were inmates in correctional facilities.

Question: In the fiscal year 1991 appropriations bill, $2 million was included for the development and expansion of literacy programs in State corrections institutions. What is the status of these funds?

Answer: The Department has set aside $2 million from fiscal year 1991 funds appropriated under the cooperative demonstration authority to support approximately 10 corrections education projects. Awards are expected to be made in February 1992.

## COOPERATIVE DEMONSTRATION PROGRAMS IN CORRECTIONS EDUCATION

Question: The Carl D. Perkins Vocational and Applied Technology Education Act authorizes the Secretary to make grants to Federal correctional institutions in consortia with educational institutions, community-based organizations, or business and industry to provide education and training for criminal offenders. Why haven't funds been requested for this authorization, given the problems this Nation faces with regard to the prison population. Shouldn't we be doing everything we can to support services for criminal offenders to help make them productive members of our society?

Answer: The Department has requested $2.5 million in 1992 for corrections education under Section 420A of the Perkins Act, which authorizes cooperative demonstration programs to serve the needs of special populations such as individuals in correctional institutions. Funds for corrections education were requested under this authority because it offers more flexibility to the Department in providing services. Section 417 authorizes educational programs only for Federal correctional institutions, and the Department wants to support corrections education programs at State and local correctional facilities as well as at Federal facilities.

## EFFECTIVE DRUG-FREE SCHOOLS PROGRAMS

Question: The General Accounting Office recently released a study of the Drug-Free Schools program and found that although school districts were using their Drug-Free Schools funds for a variety of classroom, counseling and training programs, little is known about the effectiveness of the various drug education programs in preventing or reducing drug and alcohol abuse. Your Department has an important role to play in helping to identify drug-education programs that work, so that scarce Federal dollars are not used by States and local school districts on curricula that is ineffective. What progress has the Department of Education made in this area?

Answer: The Department has provided the States with a great deal of guidance in implementing drug education programs so that Drug-Free Schools funds, as well as State and local funds, can be spent wisely. For example:

- In 1986, the Department released Schools Without Drugs. This handbook, based on research that shows that the most promising approaches to drug prevention are comprehensive programs that involve schools, communities, parents, students, and law enforcement, offers practical guidance on issues such as setting and enforcing policies, teaching about drug prevention, and how the law can help. It was revised in 1989 and more than five million copies have been distributed nationwide.

- In 1987, the Department transmitted to Congress and the States a report summarizing research and evaluation findings on the effectiveness of prevention programs.

- In 1988, the Department issued Drug Prevention Curricula: A Guide to Selection and Implementation to assist educators in choosing or adapting ready-made curricula, and to suggest important lessons that ought to be part of any prevention-education sequence, including those developed by schools and school systems for their own use.

- In 1990, the Department developed and issued Learning to Live Drug Free: A Curriculum Guide to Prevention. The model includes information on the stages of child development as they relate to drug prevention, facts about drugs, suggested lesson plans, tips on working with parents and the community, and a resource section for obtaining further information.

- In 1990, the Department distributed 40,000 copies of the National Commission on Drug-Free Schools Report. This report is essentially a blueprint that schools can follow for the development of successful programs.

Further efforts to identify promising drug prevention programs are currently underway. One study, due for completion in March 1992, will describe components of successful comprehensive school-

and community-based prevention programs. Another study, due in 1995, will examine the extent to which State and local grant programs funded under the Drug-Free Schools and Communities Act help to prevent alcohol and other drug use by students. In addition, we are working closely with the Departments of Health and Human Services and Justice to ensure that their research and evaluation findings regarding drug education and prevention are incorporated into our program designs.

Question: Drug-Free Schools funds are distributed to schools based on the districts' student population. Consequently, some of the smaller school districts receive only a few thousand dollars for drug education. Are these school districts able to conduct effective drug programs given the small amount of resources available to them?

Answer: We have never intended for Drug-Free Schools funds to be the only drug education funds available to a school district; however, these Federal funds can serve as a stimulus for comprehensive school-wide programs. The Department has encouraged small districts to form consortia with other districts to pool their resources in the most effective manner. Also, in many cases States use their set-aside funds to make supplemental grant awards to small districts.

## ABUSE OF ALCOHOL

Question: The use of alcohol by students, in both rural and urban school districts is by far the most abused substance. What actions have you taken to put more emphasis on addressing the use of alcohol?

Answer: We have addressed the use of alcohol throughout our drug prevention programs. For example:

- The Department has revised its handbook Schools Without Drugs to include more information on alcohol;
- The Department's drug prevention curriculum model includes specific information about alcohol;
- The Department is implementing the Innovative Alcohol Abuse Education program, under the Fund for Innovation in Education, to provide materials and training for educators in addressing the special needs of children of alcoholics;
- The Department has recently included invitational priorities in its Drug-Free Schools Federal Activities grant competitions for projects to prevent the use by students of "gateway drugs," including alcohol, and to provide technical assistance to State and local educational agencies in implementing prevention activities intended to benefit children of alcoholics;

- The Department continues to support the National Clearinghouse for Alcohol and Drug Information in the Department of Health and Human Services, which distributes materials on alcohol and other drugs to parents, students, educators, and other interested parties;
- The Department has been working with the Department of Health and Human Services to ensure that the messages conveyed by the two Departments regarding alcohol are consistent; and
- The Department has discussed the alcohol problem, especially as it pertains to advertising, with alcohol industry representatives.

## CHOICE IN EDUCATION

Question: The Department is proposing several school "Choice" initiatives. Dr. Alexander, please share with us your views on school "choice". Is "choice" the solution to our education problem?

Answer: The President believes that radical reforms, such as parental choice, are necessary to achieve the National Education Goals, and I agree with him. Choice recognizes that there is no "one best way" for everyone. Children have different needs, teachers have different approaches, parents have different philosophies. Choice allows schools to draw strength from diversity by developing different programs of study. Choice allows each school to excel.

Question: Does school "choice" strengthen, or hinder, parental involvement in education?

Answer: Choice plans are excellent vehicles for involving parents in their children's education. Good plans for school choice provide students and parents with real alternatives and allow the flexibility and parental involvement that are critical to the success of any choice plan. By so doing, they effectively empower parents to insist on quality schools for their children.

Question: Are parents sufficiently well informed to make the right decision to choose a proper school for their children?

Answer: I don't know how we drifted into telling parents what school their child should attend. This is America. They ought to be able to decide for themselves. But parents must have access to understandable and accurate information to make informed choices about schooling. In any good school choice program, the State or school district is careful to ensure that parents receive the information they need to make those decisions.

## FINANCIAL ISSUES AND CHOICE

Question: Exercising choice involves some additional financial expenditures by students' families, such as meeting transportation costs. The added transportation costs could be a major problem, especially in rural areas, not only with added expenses, but with the availability of transportation services. How have communities in rural areas who have choice programs handled the transportation issues?

Answer: Transportation is always an important issue in developing a choice plan. As a matter of equity, low-income students particularly will require assistance with transportation. Minnesota, which has the country's largest interdistrict public school choice program, provides low-income students who attend school in other districts free transportation the whole way; other students receive free transportation within the receiving district only. Other States have adopted similar transportation plans.

Of course, the purpose of educational choice is not to make children travel long distances. Rural districts can pool their resources to make offerings more accessible to students. They can share language teachers or cooperate on technology ventures and thereby bring choices to the students rather than requiring students to travel to other schools. Teachers and nonprofit organizations can also be chartered to open their own schools, so that new schools can be created close to where students live.

Question: Under "choice," if students are permitted to choose non-public schools, what measures would be taken to ensure that the average student, the "so-called problem student," or a handicapped or bilingual pupil would be given the same opportunity to go the non-public school as an honor student?

Answer: Under a choice plan, racial minority, disabled, and language minority children would have the same protections they have now from discriminatory school admission policies and practices. The difference between the status quo and choice is that, under choice, the real barrier to freedom of choice -- financial status -- would be neutralized.

## PRIVATE SCHOOL STUDENTS ELIGIBLE FOR CHAPTER 1 SERVICES

Question: As a result of the Felton decision, the number of private school children participating in the Chapter 1 program is still well below the pre-Felton years. Before the Felton decision the total number of students receiving Chapter 1 services was 185,000 (1984-85). In 1988-89 the number of students served was 138,000. Do you have any estimates as to how many children are currently eligible to receive Chapter 1 services in private schools?

Answer: No estimates are available on how many of the approximately 5.5 million private school students in the country are eligible for Chapter 1 services. Student eligibility is determined locally, based on local needs, priorities, and strategies. And at the local level, project design defines the universe of eligibles -- for example, in a Chapter 1 project designed to serve middle-school students, only students in those grades would be counted as eligible.

Question: Why are you not requesting additional monies for capital expenses so that school districts could use all of their Chapter 1 funds for instructional purposes?

Answer: Since the program's first year of funding in 1989, appropriations have increased 82 percent. In 1989 and 1990, according to preliminary State data, most LEAs used grant funds to recover a portion of administrative costs resulting from the 1985 Felton decision. With program increases in 1990 and 1991, we believe LEAs will begin to use funds for expenditures designed to bring more private school students into Chapter 1, rather than for reimbursement purposes. But no amount of increase in funding would allow LEAs to serve as many students as efficiently and effectively as they could before the Felton decision.

## CHAPTER 1 STUDENTS NOT SERVED

Question: What is your latest estimate of the number of educationally disadvantaged students who are not currently being served by the Chapter 1 program?

Answer: We estimate that our 1992 budget request for Chapter 1 Grants to LEAs would serve roughly 6.7 million children -- approximately 15 percent of the total number of public elementary and secondary school students in the country. As a very rough estimate, this would enable the program to serve about 60 percent of the children in Chapter 1 eligible schools who score below the 35th percentile on standardized tests. (If, instead, the 25th percentile is used as a proxy for eligibility, the request would be sufficient to reach 85 percent of eligible children.) Additional children are served through State and locally funded compensatory education programs.

Question: Why are you requesting level funding for the basic grant program when there are still so many children in need of Chapter 1 services?

Answer: Many educationally disadvantaged children do not receive Chapter 1 services, but of greater concern to the Department is funneling Chapter 1 funds and services to children most in need. Our 1992 budget request addresses this problem by proposing a $119 million increase in Concentration Grants, a program designed to target funds on the most needy.

Data from the National Assessment of Chapter 1 conducted in the 1980s indicated that while many low-achieving students in poor school districts went unserved, higher-achieving students in wealthier school districts had Chapter 1 services. This problem was raised again as an issue for attention in the new National Assessment study now in progress by members of the study's Independent Review Panel.

## EFFECT OF REDUCTION IN LIBRARY FUNDING ON NATIONAL EDUCATION GOALS

Question: In 1988-89, the Indian Valley Public Library received $5,000 from Title I of the Library Services and Construction Act (LSCA) to buy science books, and the Lower Providence Community Library received $5,000 to buy children's books. If funding for libraries such as these are eliminated, how can the national education goals be met?

Answer: Our proposal is to concentrate Federal funding for libraries on just one of the national goals -- for every adult American to be literate by the year 2000. Concentrating $35 million of Title I funds on literacy projects authorized under LSCA would allow the public libraries you mention and others like them across the Nation to contribute significantly to this goal.

## PRESIDENTIAL ACHIEVEMENT SCHOLARSHIPS

Question: Your budget requests $170 million in fiscal year 1992 for a Presidential Achievement Scholarships program. This program would provide awards of $500 to Pell Grant recipients who excel in their studies. Mr. Secretary, rather than starting a new scholarship program, why not concentrate the scare Federal resources available into existing student aid programs?

Answer: One of the most important reasons we have sought to develop bold and innovative proposals for reauthorizing the Higher Education Act is to more effectively utilize limited Federal resources. We feel our proposal for Presidential Achievement Scholarships is particularly worthy at this time because it would promote educational opportunity for needy students while motivating them to achieve academically. Encouraging academic achievement by Federal student aid recipients will benefit both students and the Nation as a whole, while helping to ensure that limited Federal resources are put to good use.

## PELL GRANT PROPOSALS--IMPACT ON MIDDLE-INCOME STUDENTS

Question: Dr. Alexander, your budget proposes to provide higher Pell Grant awards to students from families with incomes of $10,000 or less. This would eliminate grants to approximately 404,000 students and reduce the awards to thousands of others. While I see that you are requesting an increase in the Guaranteed Student Loan program, overall, your proposal would result in a reduction of grants and loans to approximately 222,000 students. With the cost of education on the rise, raising the grant award makes sense; however, don't you think this has an adverse effect on middle class students? Given this Administration's commitment to education, is it fair to trade off middle-income students in order to benefit low-income students?

Answer: There is a misperception that the increase in the Pell Grant maximum award is being funded by the elimination of middle income students from the program. In fact, the projected reduction in the number of recipients would be distributed across all income categories. Approximately one-third would be in the less than $10,000 income category, another third between $10,000 and $20,000, and the final third in the above $20,000 income group.

Under the Administration's proposals, the reduction in Pell Grant recipients would result from the combination of proposed changes in Pell award rules, in the determination of need, and in policies that would promote program integrity. These measures include, for example, eliminating the 30 percent cap on student verification, eliminating schools with high default rates, imposing a minimum student achievement standard, and tightening the definition of an independent student.

While the total number of recipients is decreasing, it is important to note that the Administration's Pell Grant proposals would, in general, increase the average awards to students regardless of income category. For example, in the $15,000 to $30,000 income category, average awards would increase by about $100, from $1,200 in 1991 to $1,300 in 1992. Further, the actual proportion of recipients in this $15,000 to $30,000 income category would remain constant from 1991 to 1992 at about 24 percent.

In addition to the increase in the average award, Presidential Achievement Scholarships of $500 would be provided to all Pell Grant recipients, regardless of income, who graduated in the top 10 percent of their high school class or who are in the top 20 percent of their postsecondary class.

## INCOME-BASED TUITION AT PUBLIC INSTITUTIONS

Question: Severe stresses on State budgets have recently led some Governors to call for charging residents at State colleges tuitions that are more reflective of their ability to pay. What is your position on introducing some income-sensitivity to State school tuition? If such a policy were adopted nationwide it potentially could make billions more dollars available for need-based student financial assistance.

Answer: Tuition policies at State institutions of higher education are, of course, State concerns. However, the use of financial needs tests to target public subsidies on the basis of need would be consistent with the procedures by which Federal student aid funds are awarded.

## CONTROLLING DEFAULTS AT PROPRIETARY SCHOOLS

Question: Dr. Alexander, while proprietary schools generate the highest default rates, they meet an important need in providing educational opportunities to non-college bound youth. How does the Department plan to control the default rate among these schools, without eliminating the schools that are providing a quality education?

Answer: The Department is proposing several legislative provisions that would reduce defaults without eliminating schools from the programs. The schools that would be eliminated from the Guaranteed Student Loans program are those schools with serious and chronic default problems, which may suggest a weak educational program or actual program abuse. Provisions that would reduce defaults without eliminating program eligibility include:

- Establishing a minimum program-length requirement of 6 months (equivalent of 600 hours) as a condition of eligibility for the GSL program.
- Requiring lenders to perform credit checks.
- Requiring 60-day delayed disbursement for schools with high default rates.

- o Requiring lenders to provide graduated repayment options to borrowers.

## ENDOWMENT SUPPORT FOR HISTORICALLY BLACK COLLEGES AND UNIVERSITIES

Question: Does the Department of Education still support setting aside a portion of the Title III, Part C Challenge Endowment Grant funding for historically black colleges and universities (HBCUs), as you have proposed the past two years?

Answer: The Department continues to regard endowment building as essential to establishing the financial stability of HBCUs and of other institutions serving large numbers of minority and disadvantaged students. In 1992, as part of AMERICA 2000--An Education Strategy, $10 million would be set aside for HBCUs under Title III, Part C. In addition, HBCUs that were not selected as grantees under the set-aside would be eligible to compete for general Part C endowment grants.

Question: Why was no funding provided for this endowment initiative in the fiscal year 1992 Budget and no legislative proposal included in the Higher Education Act reauthorization recommendations? Why was the overall Part C funding reduced to $7.5 million?

Answer: Recently forwarded 1992 budget amendments in support of AMERICA 2000--An Education Strategy contain a $10 million endowment initiative for historically black colleges and universities. This initiative will also be part of the Administration's reauthorization proposal for Title III, Part C of the Higher Education Act. The $7.5 million earlier proposed for general Part C, plus the recently proposed $10 million HBCU set-aside yields a total 1992 Administration request equal to the 1991 level. The likelihood of an additional $10 million endowment request for HBCUs was announced in the Department's initial 1992 budget.

Question: The fiscal year 1992 Budget reflects no proposed increase in Part B funding for HBCUs. Given the extraordinary deferred maintenance needs of many of these campuses and the dramatic increases in Black College enrollments over the past 2-3 years, why is no increase proposed?

Answer: The fiscal year 1992 request for HBCUs under Part B of Title III, which is the same as the request for 1991, reflects the present budget situation. However, the HBCUs will benefit from the proposed increase in the maximum Pell Grant award from $2,400 to $3,700 in fiscal year 1992. This increase will greatly enhance the postsecondary choices available to low-income and minority students and may encourage more of them to pursue a postsecondary career. While the Pell Grant program is race-neutral, minority students may benefit disproportionately from the proposed increase because many fall into one of the categories of disadvantage used to determine Pell eligibility. As these Pell recipients enroll at HBCUs in increasing numbers, the tuition revenues they generate will enhance the financial stability of these important institutions.

## PROPOSAL TO RAISE PART B STATUTORY MINIMUM

**Question:** Although neither Lincoln University nor Cheyney State University would be affected by raising the minimum award from $350,000 to $500,000, several smaller HBCUs in Texas would, and over all, 14 HBCUs have not benefitted from the increased Title III, Part B appropriation since 1986. Does the Administration believe the Title III, Part B floor should be raised to $500,000?

**Answer:** The Administration does not support raising the Title III, Part B statutory minimum for HBCUs from $350,000 to $500,000. The current formula is carefully configured to target maximum support to those schools that have the most need--as measured by lowest educational and general (E&G) expenditures per full-time-equivalent student and number of Pell recipients enrolled, and on those that are making the most impact--as measured by numbers of graduates and percent of graduates going on to graduate study. To increase the minimum award at this time would have the effect of diverting funds away from the neediest and most effective HBCUs and toward the more well-off schools.

## STRENGTHENING HISTORICALLY BLACK GRADUATE INSTITUTIONS

Question: This question involves adding five new health careers or law schools to Title III, Section 326 without endangering or reducing current awards to the current recipients -- adding Florida A&M's School of Pharmaceutical Science, Xavier University's School of Pharmacy, North Carolina Central's School of Law, Southern University's School of Law, and Texas Southern University's School of Law (or the School of Pharmacy). Will you support such a modification in Title III, Section 326?

Answer: The Administration is not in favor of adding five new health career and law schools to the list of institutions eligible to participate in Section 326 of Part B. This section is intended to provide support for "independent professional or graduate institutions" that are not eligible to participate under general Part B. The five institutions proposed for inclusion are each part of an undergraduate HBCU that already receives funds under general Part B.

## IMPACT OF PELL GRANT PROPOSALS ON STUDENTS AT HISTORICALLY BLACK INSTITUTIONS

Question: I am concerned about the potential impact of the proposed "re-targeting" of the Pell Grant program on the lowest income students. As I read your Student Financial Assistance budget justification (chart on page L-28), 58 percent of all Pell Grant recipients are from families with income below $15,000; at private HBCUs that figure would be 75 percent; and at public black colleges it would be 80 percent. On the basis of your own figures why should we re-target, if 60 percent of the funds are already going to the poorest of the poor?

Answer: As stated earlier, the increase in the Pell Grant maximum award is not being funded by the elimination of middle income students from the program. In fact, the projected reduction in the number of recipients would be distributed across all income categories, with approximately one-third in the less than $10,000 income category, another third between $10,000 and $20,000, and the final third in the above $20,000 income group.

The Department is proposing to improve the targeting of aid under the Pell Grant program, not to refocus aid from one group to another.

It is important to note that, while the total number of recipients is decreasing, the Administration's Pell Grant proposals would, in general, increase the average awards to students regardless of income category. For example, in the $15,000 to $30,000 income category, average awards would increase by about $100, from $1,200 in 1991 to $1,300 in 1992. Further, the actual proportion of recipients in this $15,000 to $30,000 income category would remain constant from 1991 to 1992 at about 24 percent.

The reduction in Pell Grant recipients would result from the combination of the Administration's proposed changes in Pell award rules, in the determination of need, and in policies that would promote program integrity. These changes include eliminating the 30 percent cap on student verification, eliminating schools with high default rates, imposing a minimum student achievement standard, and tightening the definition of an independent student.

During these times of tight fiscal constraint, it is appropriate to continue to refine the Federal aid award guidelines so that the most financially disadvantaged students receive the assistance required to ensure equal access to postsecondary education.

## DISTRIBUTION OF PELL AWARDS

Question: Since HBCUs have large numbers of "NEAR POOR" students from families with income between $15,000 and $25,000 -- 26 percent at private black colleges and 26.7 percent at public black colleges -- why should we take Pell Grant funds from the NEAR POOR and give them to the "VERY POOR"? Aren't we "robbing Peter to pay Paul?"

Answer: Under the Department's 1992 Pell Grant proposal, financially disadvantaged students from families with incomes between $15,000 and $25,000 could qualify for more assistance than under the current program. For example, a student from a family of four with one student in college and total parental income of $25,000 would be eligible to receive up to $2,700, depending upon his or her cost of attendance. If the student were from a family of four with one in college and total parental income of $30,000, he or she could receive up to $1,970, depending upon cost of attendance.

While the total number of students in the $15,000 to $30,000 income category would decrease under the Department's 1992 proposal (as would the total number of students and the number of students in the less than $15,000 income category), the proportion of Pell Grant recipients in the $15,000 to $30,000 income category would remain at 24 percent, the same as in 1991. Also, on average, the awards to students in this income group would increase by about $100, from $1,200 in 1991 to $1,300 in 1992.

In addition to increasing the Pell Grant maximum and the Pell Grant average award, proposed Presidential Achievement Scholarships of $500 would be provided to all Pell Grant recipients, regardless of income, who graduated in the top 10 percent of their high school class or who are in the top 20 percent of their postsecondary class.

### INCREASED MATCHING REQUIREMENT FOR SEOG AND WORK-STUDY--IMPACT ON HISTORICALLY BLACK INSTITUTIONS

Question: The fiscal year 1992 budget proposes to increase the institutional "matching" requirement for SEOG from 15 percent to 50 percent and in College Work-Study from 30 percent to 50 percent. What data do you have or research have you done to suggest that black colleges have resources to meet the new matching requirements? If you do not have such data, gather it for all of the 98 historically black colleges and universities (HBCUs) eligible for Part B of Title III.

Answer: The information needed to respond to these questions is not available at this time. The Department is preparing the requested analysis and will forward it to the Subcommittee as soon as possible.

Question: Also, provide me with institution-specific data on how much less they will get in their institutional allocation and how many fewer awards will be made on an institution-by-institution basis if HBCUs cannot provide the matching funds you expect.

Answer: The information needed to respond to these questions is not available at this time. The Department is preparing the requested analysis and will forward it to the Subcommittee as soon as possible.

---

## QUESTIONS SUBMITTED BY SENATOR MARK O. HATFIELD

### EISENHOWER MATH AND SCIENCE EDUCATION

Question: What kind of results can we expect from the $660 million requested for precollege programs in mathematics and science in the President's budget (government-wide), including the $313 million requested for the Department of Education?

Answer: The $660 million request represents a 28 percent increase in the amount to be spent by the Federal Government on mathematics and science education at the precollege level. The majority of these funds--54 percent--are going toward teacher preparation and enhancement activities. Through Education's Eisenhower State Grants program and the National Science Foundation Teacher Enhancement and Preparation programs, we expect to provide the majority of mathematics and science elementary and secondary teachers with professional development experiences.

In addition, 18 percent of Federal mathematics and science education funds for precollege education will go to curriculum reform and improvement. These funds will provide support to ongoing national curriculum reform projects. These projects are designed to be models of effective mathematics and science curricula which can be implemented by school systems.

The Federal Coordinating Council on Science, Engineering, and Technology (FCCSET) is in the midst of a review of each agency's programs with the goal of establishing a coordinated Federal strategy for mathematics and science education so that the significant resources invested by the Federal Government can be utilized to maximum effect.

## FEDERAL COORDINATION OF MATH AND SCIENCE PROGRAMS

Question: What is the Department doing to coordinate its math and science education efforts with the other ten Federal agencies that are also trying to strengthen math-science achievement?

Answer: The Department coordinates its efforts in science and mathematics education with other agencies in both formal and informal ways. We have a leadership role in the Committee on Education and Human Resources of the Federal Coordinating Council on Science, Engineering, and Technology (FCCSET), whose report was released on February 4. As stated above, the committee is in the midst of reviewing all the participating agencies' programs with the ultimate goal of establishing a Federal strategy for mathematics and science education.

In addition, a joint committee has been established to foster cooperation between the Department of Education and the NSF. The Department is working with NSF on such ED programs as the National Diffusion Network, National Center for Education Statistics surveys, National Science Scholars, and the Eisenhower National Programs. Other cooperative ventures include work with the Environmental Protection Agency on the environmental education program, with Health and Human Services on their new science and mathematics educational initiative, and with NASA and the Department of Energy on a tri-State educational initiative tied to the establishment of an advanced solid rocket motor facility. Details of these and other programs can be found in the Department's response to the Senate directive requiring a report on the Department's coordination efforts.

Question: I understand that the Department of Education has only three staff to oversee all math and science applications, conduct evaluations, and visit project sites. How is it possible to do an adequate job of administering this program with this limited number of staff?

Answer: The Eisenhower State Grants program presently consists of a branch chief and three program officers. Until very recently, staffing ceilings have prevented the hiring of new staff; however, we now have authority to add new staff. Four new staff members will be added within the next six weeks, and we expect to employ an additional two to three by September 30, 1991. This will provide a staff of 10 or 11 by October 1, 1991. We believe this level of professional staffing will be adequate for administration of the program. Other math and science activities of the Department (Eisenhower National Programs, National Science Scholars, etc.) have separate staff.

Question: Do these staff members have qualifications in education, particularly in the math and science area, upon which to draw in dealing with State project applications and evaluations?

Answer: The branch chief has a strong educational background in the biological sciences and experience as a high school science teacher, State science supervisor, and national science supervisor for the U.S. Office of Education. The three program officers have backgrounds and experience in education, but not in the content areas of mathematics and science. The new staff members selected will have strong backgrounds in mathematics and science and substantial experience in teaching, curriculum development, and supervision.

## MERIT SCHOOLS--MATH AND SCIENCE ACHIEVEMENT

Question: Dr. Alexander, would you tell us a little more about the new math and science achievement awards?

Answer: Under the "AMERICA 2000 Educational Excellence Act," mathematics and science achievement would be a component of the Merit Schools program. Those funds would be allocated to States based on State shares of funding under the Chapter 1 LEA Grants program. States would be required to use at least 20 percent of their Merit Schools funds for awards to schools that demonstrate outstanding progress in mathematics and science.

## GOVERNORS' ACADEMIES FOR TEACHERS

Question: Mr. Secretary, you are proposing to establish Governors' Academies for Teachers. Funds requested in the budget are to be used as seed money to establish these academies. Is this a one-time appropriation or do you envision these academies needing support over the next several years?

Answer: The request is not a one-time-only request; rather, we are proposing a five-year Federal effort. Federal funds would account for 75 percent of the cost of a Governor's Academy for Teachers in the first year, 65 percent in the second year, 55 percent in the third year, 45 percent in the fourth year, and 35 percent in the fifth year. The remaining share would be provided from non-Federal sources, and could include in-kind contributions. Applications for funds would have to describe how the State will meet the cost-sharing requirements and how the State will continue to operate the Academies when Federal assistance is no longer available.

## PUBLIC LIBRARIES--TRENDS IN SERVICES AND SUPPORT

Question: The Wall Street Journal and other sources have reported that libraries are really feeling the pinch from the recession as well as the budget cuts being imposed by State and local governments. How adequate is public library service across the country, and what are the current trends in library support?

Answer: There has been no national study of the adequacy of public library services. Each community establishes its own standards of adequacy. However, there were 1.3 billion circulation transactions reported at public libraries in the 50 States and the District of Columbia in 1989, or an average of 5.6 transactions per capita.

The National Center for Education Statistics has just published the report of its first public library survey (Public Libraries in 50 States and the District of Columbia: 1989, April 1991). It shows that public libraries reported a total income of $4 billion in 1989 -- 81 percent ($3.3 billion) from local government sources, 8 percent ($325 million) from State government sources, 1 percent ($57 million) from Federal sources (including grants under the Library Services and Construction Act (LSCA) program), with the remaining funds ($384 million) from other sources, such as gifts, endowments, and foundation grants. Because this is the first complete survey, no trend data can be derived until data from 1990, just being collected, are published. Note that because LSCA funds go to agencies other than local public libraries (notably State agencies, regional libraries, and library cooperatives), not all LSCA funds are reported in the survey.

## FUNDING FOR COLLEGE LIBRARY TECHNOLOGY

Question: Libraries have helped to develop interactive systems using the latest technology to share resources and improve their services. In my State, Eastern Oregon State College has received a grant of $32,000 from the Higher Education Act College Library Technology program to continue development of an interactive computerized system that will provide services to off-campus students -- many living as far away as 300 miles. How does zeroing out this title help libraries to utilize the latest and always expensive technologies?

Answer: For four years the College Library Technology program has supported awards like the one that you mentioned and has met some of the most urgent needs for up-to-date equipment in college libraries. Colleges and universities have, by and large, continued projects funded under the College Library Technology program with their own resources after Federal funding has terminated. Support for equipment for libraries, like equipment purchased for other purposes, can be provided by colleges and universities themselves.

## STATUS OF URBAN UNIVERSITY GRANT PROGRAM

Question: Mr. Secretary, Oregon is honored to have Dr. Judith Ramaley as its new President of Portland State University. Dr. Ramaley is a well known advocate for improving the "urban university" system in this country as a means of increasing educational opportunities and skills development for disadvantaged youth and adults. She believes one means of achieving that end is through the funding of the Urban University grant program authorized by the Higher Education Act. It is my intention as a member of this Subcommittee to work to obtain funding for these grants for fiscal year 1992. Since, the authority for this program expires at the end of fiscal year 1992, does the Department intend to include this program as part of its Higher Education Act Reauthorization package? If not, why not?

Answer: The authority in Title XI for the Urban Grant University Program expired in 1985. The program, which never received funding, was not reauthorized in the Higher Education Act Amendments of 1986, but rather was replaced by the new Title XI, Partnerships for Economic Development and Urban Community Service, which was intended to expand business and industry opportunities and enhance local growth initiatives through linking postsecondary institutions with units of government, labor, business, industry, and community organizations. The Administration is not proposing reauthorization of Title XI because the purposes of Title XI are misplaced in the HEA. The HEA should provide support for the education of students, either directly to students or indirectly to institutions that provide education for students. It should not include programs specifically designed to enhance local economic growth or address community problems.

## IMPROVING EDUCATIONAL ACCESS FOR THE DISADVANTAGED

Question: What initiatives is the Department considering to revitalize educational opportunities for our Nation's disadvantaged urban residents?

Answer: Our Nation's disadvantaged residents--both urban and rural--are the main focus of the Administration's reauthorization proposals. As the American Council on Education points out in its 1990 report "Minorities in Higher Education", simply providing access to college is not enough. "Far too many students who enter college with the intent of attaining a four-year degree never reach their goal." This "revolving door syndrome" is caused by a multitude of complex factors, including academic preparedness, socioeconomic status, financial support, campus climate, and availability of support services. The Administration's reauthorization proposals contain a number of strategies that the Federal Government and postsecondary institutions, working together, can use to encourage disadvantaged students to aspire to college and to help them succeed once they are enrolled:

## PRECOLLEGE OUTREACH AND OTHER SUPPORT PROGRAMS FOR THE DISADVANTAGED

- Outreach and Recruitment Programs--Studies show that the single most important factor contributing to lower participation in higher education among minority and disadvantaged students is inadequate preparation in the earlier grades, where fundamental attitudes toward and decisions about postsecondary education are made. It is essential to get information about postsecondary academic and financial aid opportunities into the hands of minority students at the secondary level. To help accomplish this goal, the Department has proposed to consolidate a number of the TRIO programs into a single, flexible Precollege Outreach program, that would encourage aspirations toward postsecondary education among disadvantaged youth and would provide the academic and cultural enrichment they need to complete their secondary educations and to enroll and succeed in college. Funded projects and State administering agencies will be required to define performance standards (for example, college placement rates) to ensure that program goals are achieved.

- Support Services--To make the campus environment more hospitable for disadvantaged students, institutions can provide academic and social support services, counseling, mentoring, summer orientation courses, and courses that foster an appreciation of cultural diversity. The Department will continue support for the Student Support Services program, a component of the Special Programs for the Disadvantaged, that provides institutions with funds for this type of activity. Projects funded under this program will also be required to achieve predefined performance standards.

- Financial Aid--The Department will continue to provide strong student financial aid programs which focus on students who are economically disadvantaged (from low-income families). For fiscal year 1992, the Department proposes to raise the maximum Pell Grant from $2,400 to $3,700 and to increase annual loan limits under the Stafford Loan program from $2,625 to $3,500. This will greatly enhance the postsecondary choices available to low-income and minority students and may encourage more to pursue a postsecondary career.

- Institutional Support--The Department proposes to continue to provide developmental support to financially weak institutions serving large numbers of disadvantaged students. Programs such as Title III and the Minority Science Improvement (MSIP) program strengthen and improve the academic offerings available at these institutions, and by so doing, improve access to quality education for disadvantaged students. Title III and MSIP grantees will be required to establish and demonstrate progress toward performance goals as a condition of continued funding.

## REGIONAL EDUCATION LABORATORIES

Question: Mr. Secretary, I have supported, and the Subcommittee has supported funding for the regional education laboratory system in this country. I personally am familiar with the excellent work that is done by the Northwest Regional Education Laboratory in Portland. The previous Administration sought to eliminate support for these laboratories. Given your commitment to increase education research and development, can I count on you to support the important network of the regional laboratories?

Answer: In December 1990, the Department of Education awarded new five-year contracts for the operation of ten regional laboratories. Total funding for these contracts was set at approximately $163 million. This is the largest single group of awards made in the program's history. The laboratories have an important role to play in helping American schools attain the national education goals.

## NATIONAL DIFFUSION NETWORK

Question: Last year the Committee provided within the National Diffusion Network (NDN) $800,000 to disseminate exemplary mathematics and science education programs and $300,000 to disseminate special education programs. Has the full $1.1 million provided in fiscal year 1991 been used for the purposes specified in the Committee report and, if not, why not?

Answer: The fiscal year 1991 grants under the NDN program have not yet been awarded. Our plans call for most of the awards to be made in June and July. A competition for new developer demonstrator projects was announced for 1991, and mathematics and science were among the priorities established. Depending upon the number of quality applications received, about eight new science and mathematics developer demonstrator projects will be funded. Additional special education developer demonstrator programs will also be funded depending on the number of competitive applications received.

## FOREIGN LANGUAGES ASSISTANCE PROGRAM

Question: Dr. Alexander, last year, at my request, a modest amount of money was included in the bill to start the Foreign Language Assistance program. I also included language in the Committee report focusing these funds for language instruction in the less commonly taught languages. As of this date, the Department has issued no guidelines regarding the use of these funds, and there have been some conflicting messages about what languages would be included in those guidelines when they are issued. What are the Department's plans for implementing the Foreign Language Assistance Act?

Answer: The Department has published a Notice of Proposed Interpretation and Designation of Critical Foreign Languages. In that Federal Register notice, the Secretary proposed that the Foreign Languages Assistance program focus on the following less-commonly taught and critical languages: Chinese (all dialects), Japanese, Korean, Arabic (all dialects), and Russian. Applications are expected to be sent out to the States in June and awards will be made in the summer.

Question: When can we expect to see the guidelines governing the use of these funds?

Answer: On April 29, 1991, the Notice of Proposed Interpretation and Designation of Critical Foreign Languages was published in the Federal Register. Following the 45-day comment period, the Department will publish final regulations.

Question: If American children are to be competitive with children of other nations, they must develop the language skills to function in a global society. Given the need for these language skills, why has the Department requested no funding for the Foreign Language Assistance program?

Answer: The Department fully recognizes the need to improve foreign language instruction. However, the the Foreign Languages Assistance program is, by statute, poorly structured to achieve that objective. Because each State will recieve only a small amount of funding and must carry out a variety of projects, the program is unlikely to provide for the intensive, long-term instruction needed to achieve fluency in the very difficult, less-commonly taught languages. Federal funds can be better spent elsewhere.

## FOREIGN LANGUAGE TEACHER SHORTAGE

Question: Foreign language enrollments across all educational levels and all languages are increasing rapidly. Recently, five States (Arizona, Louisiana, North Carolina, Oklahoma, and Arkansas) instituted language requirements at the elementary level. Yet, thirty-five States report a severe foreign language teacher shortage, and elementary teachers in critical languages such as Japanese are almost impossible to fund. How is the Department attempting to address this serious foreign language teacher shortage?

Answer: The Department's International Education and Foreign Language Studies programs are designed to strengthen the capability and performance of American education in foreign languages and in area and international studies. Several programs are specifically geared toward teachers of foreign languages. Language Resource Centers--funded at $1.146 million in 1991--are designed to improve the teaching of foreign languages; International Research and Studies Projects--funded at $2.867 million in 1991--support projects to develop more effective teaching methods in foreign languages and area and international studies, to determine the need for improved instruction, and to develop specialized curriculum materials. Foreign Language and Area Studies Fellowships--$11.342 million in 1991--support graduate-level training in modern foreign languages and area or international studies. Fulbright-Hays programs--$5.855 million in 1991--support advanced study abroad, often in less commonly studied languages and cultures.

## COMMUNITY COLLEGE PROPOSAL

Question: As you know, I recently co-sponsored legislation to create an Assistant Secretary for Community Colleges at the Department of Education. Given the overwhelming numbers of our students in community colleges, I feel there is a need for a central point in the Department to look for the needs of these colleges and the students they serve. What is your view on the designation of a high level position within the Department to serve/meet these needs?

Answer: The Department shares your concerns that the needs of community colleges and of the students that they serve must be carefully considered if we are to achieve our national education goals. To this end, I have appointed Mike Farrell as Acting Assistant Secretary for Postsecondary Education. Mr. Farrell is charged with improving the administration of the student financial aid programs which ensure postsecondary educational opportunities for financially disadvantaged students. Because the student assistance programs are the same at all schools regardless of institutional type or control, segregation of Federal oversight responsibilities by school characteristics would needlessly complicate the administration of these programs.

## CONCLUSION OF HEARINGS

Senator **Harkin**. Thank you all very much. The subcommittee will stand in recess subject to the call of the Chair.

[Whereupon, at 4:15 p.m., Thursday, April 25, the hearings were concluded, and the subcommittee was recessed, to reconvene subject to the call of the Chair.]

# LIST OF WITNESSES, COMMUNICATIONS, AND PREPARED STATEMENTS

Page

Adams, Hon. Brock, U.S. Senator from Washington, questions submitted by ..... 93
  Prepared statement ..... 3
Alexander, Lamar, Secretary, Department of Education ..... 557
  Biographical sketch ..... 576
  Letter from ..... 562
  Prepared statement ..... 573

Backley, Richard V., Acting Chairman, Federal Mine Safety and Health Review Commission ..... 349
  Prepared statement ..... 350
Baker, Richard, Executive Director, Federal Mine Safety and Health Review Commission ..... 349
Bassett, Irving A., Jr., Assistant Inspector General for -Investigations, Office of Inspector General, Department of Labor ..... 103
Berman, Richard, member, Prospective Payment Assessment Commission ..... 535
Boehner, James C., Assistant to the Labor Member, Railroad Retirement Board ..... 261
Bower, Glen L., Chairman, Railroad Retirement Board ..... 261
  Biographical sketch ..... 275
  Prepared statement ..... 266
Bumpers, Dale, U.S. Senator from Arkansas, questions submitted by ..... 89
Byrd, Hon. Robert C., U.S. Senator from West Virginia, questions submitted by ..... 261

Castle, William E., Director, National Technical Institute for the Deaf ..... 134
  Biographical sketch ..... 139
  Prepared statement ..... 136
Christensen, Sally H., Acting Deputy Under Secretary for Planning, Budget and Evaluation, Department of Education ..... 557
Chamberlain, C.J., labor member, prepared statement ..... 275
  Biographical sketch ..... 276
Cleary, Patrick J., member, National Mediation Board ..... 249
Cochran, Hon. Thad, U.S. Senator from Mississippi, prepared statement ..... 560
Collins, Jan, Executive Director, Occupational Safety and Health Review Commission ..... 355

Darden, Harding, Jr., Budget Officer, National Labor Relations Board ..... 291
Darling, Ray, Executive Secretary, Clerk of Court, Occupational Safety and Health Review Commission ..... 355
De La Rosa, Julian W., Inspector General, Office of Inspector General, Department of Labor ..... 103
  Biographical sketch ..... 105
  Letter from ..... 115
  Prepared statement ..... 104
De Marco, Frederick, Senior Vice President, Station Relations and Treasurer, Corporation for Public Broadcasting ..... 405
DeLury, Bernard E., Director, Federal Mediation and Conciliation Service ..... 241
  Prepared statement ..... 241
Doyle, William J. III, Inspector General, Railroad Retirement Board ..... 335
  Biographical sketch ..... 340
  Prepared statement ..... 336
Durkin, Mary P., Budget Officer, Federal Mediation and Conciliation Service ..... 241

Page

Ferrara, Joseph, General Counsel, Federal Mine Safety and Health Review Commission ..... 349
Ferry, Capt. Francis J., Governor, U.S. Naval Home ..... 361
  Prepared statement ..... 362
Flores, Brian L., Deputy Director, Federal Mediation and Conciliation Service. 241
Foulke, Edwin G., Jr., Chairman, Occupational Safety and Health Review Commission ..... 355
  Prepared statement ..... 356

German, E.J., Assistant Inspector General for Resource Management and Legislative Assessment, Office of Inspector General, Department of Labor ..... 103
Gheen, Col. John W., U.S. Army (retired), Deputy Governor, U.S. Soldiers' and Airmen's Home ..... 547
Ginsburg, Paul B., Ph.D., Executive Director, Physician Payment Review Commission ..... 389
  Biographical sketch ..... 393
  Prepared statement ..... 390
Gorton, Hon. Slade, U.S. Senator from Washington, questions submitted by ..... 99
Grider, Col. Robert J., U.S. Army (retired), Director, Administration, U.S. Soldiers' and Airmen's Home ..... 547

Hatfield, Hon. Mark O., U.S. Senator from Oregon, questions submitted by ..... 715
Hilbert, Maj. Gen. Donald C., U.S. Army (retired), Governor, U.S. Soldiers' and Airmen's Home ..... 547
  Prepared statement ..... 549
Hoss, Larry, Director of Administrative Services, Occupational Safety and Health Review Commission ..... 355
Hunter, Jerry M., General Counsel, National Labor Relations Board ..... 291
  Prepared statement ..... 298

Javits, Joshua M., Chairman, National Mediation Board ..... 249
  Prepared statement ..... 251
Jenifer, Franklyn G., president, Howard University, Department of Education 125
  Biographical sketch ..... 129
  Prepared statement ..... 128
Jones, David, Chief Legal Counsel and Special Advisor, Occupational Safety and Health Review Commission ..... 355
Jones, Roberts T., Assistant Secretary for Employment and Training, Office of the Secretary, Department of Labor ..... 1
Jordan, I. King, president, Gallaudet University ..... 130
  Biographical sketch ..... 134
  Prepared statement ..... 132

Kenny, Jane A., Director, ACTION ..... 207
  Prepared statement ..... 210
Komarek, Thomas C., Assistant Secretary for Administration and Management, Office of the Secretary, Department of Labor ..... 1
Kowalczyk, Gary, Comptroller and Acting Associate Director for Management and Budget, ACTION ..... 207

Ledwig, Donald E., President and Chief Executive Officer, Corporation for Public Broadcasting ..... 405
  Biographical sketch ..... 425
  Prepared statement ..... 418
Lee, Carlton, Liaison Officer, National Commission on Acquired Immune Deficiency Syndrome ..... 525
Leroy, Lauren, Ph.D., Deputy Director, Physician Payment Review Commission ..... 389
  Biographical sketch ..... 393
Lewis, Ambassador Samuel W., President, U.S. Institute of Peace ..... 497
  Prepared statement ..... 506

Madigan, Kimberly, member, National Mediation Board ..... 249
Martin, Hon. Lynn, Secretary of Labor, Department of Labor ..... 1
  Biographical sketch ..... 14
  Prepared statement ..... 10
McMullen, James E., Director, Office of Budget, Office of Inspector General, Department of Labor ..... 103

Page

Merlin, Paul, Chief Judge, Federal Mine Safety and Health Review Commission 349

Nelson, Charles E., Executive Vice President, U.S. Institute of Peace 497

Ohman, Earl, Jr., General Counsel, Occupational Safety and Health Review Commission 355
Osborn, June E., M.D., Chairman, National Commission on Acquired Immune Deficiency Syndrome 525
  Prepared statement 529

Peterson, Gerald W., Assistant Inspector General for Audit, Office of Inspector General, Department of Labor 103

Reardon, Andrew F., Management Member, Railroad Retirement Board 261
  Biographical sketch 277
Reid, Charles E., Chairman, National Commission on Libraries and Information Science 465
  Prepared statement 468
Reid, Hon. Harry, U.S. Senator from Nevada, questions submitted by 91
Reszetar, Mary Alice Hedge, associate executive director, National Commission on Libraries and Information Science 465
Robb, Lynda Johnson, on behalf of the National Commission to Prevent Infant Mortality 375
  Prepared statement 378

Sanders, Ted, Deputy Secretary, Department of Education 557
Schick, Gustave A., Assistant Inspector General for Labor Racketeering, Office of Inspector General, Department of Labor 103
Specter, Hon. Arlen, U.S. Senator from Pennsylvania, questions submitted by 701
  Prepared statement 559
Stephens, James M., Chairman, National Labor Relations Board 291
  Letter from 316
  Prepared statement 293
Swaim, Elinor, Vice Chairman, National Commission on Libraries and Information Science 465

Tenney, Paul, Administrative Law Judge, Occupational Safety and Health Review Commission 355
Thomas, James B. Jr., Inspector General, Department of Education:
  Biographical sketch 603
  Prepared statement 602
Tinsley, Tuck III, president, American Printing House for the Blind 141
  Biographical sketch 143
  Prepared statement 142
Truesdale, John C., Executive Secretary, National Labor Relations Board 291
Turner, Marshall C., Jr., Chairman of the Board of Directors, Corporation for Public Broadcasting 405
  Biographical sketch 415
  Prepared statement 409

Walker, Elizabeth J., Budget Officer, U.S. Soldiers' and Airmen's Home 547
Williams, Jane, Research Associate, National Commission on Libraries and Information Science 465

Young, Donald, M.D., Executive Director, Prospective Payment Assessment Commission 535
Young, Peter, Executive Director, National Commission on Libraries and Information Science 465

# SUBJECT INDEX

## ACTION

Page
Budget request 208
Drug alliance 209
Inspector general 209
Older American Volunteer Programs 209, 212
Questions submitted by the subcommittee 216
Senior Companion Program 213
Student Community Service Program 208
Volunteers in Service to America 215, 208

## CORPORATION FOR PUBLIC BROADCASTING

Budget request 405
Children's programming 434
Closed captioning 426
Community outreach efforts 416
CPB's fiscal year 1994 authorization request 429
Educational potential of public broadcasting 406
Fundraising 427
Need for full appropriations for CPB's general operations 407
Questions submitted by the subcommittee 435
Rural stations, service to 431
Satellite replacement 434
Television service, independent 434
Video service, descriptive 427

## DEPARTMENT OF EDUCATION

### SECRETARY OF EDUCATION

America on line proposal 573
America 2000:
  An education strategy 558, 561
  Authorizing legislation required by 600
  Budget proposals in support of 561
  Choice proposals in 599
  Legislative proposals 572
    Community: The challenge to become an 571
    Strategy:
      Budget of $690 million for 589
      Choice in 589
      Four tracks to 570
Annie Casey Foundation 588
Education reform, an approach to 570
Basis for voluntary nature of test proposal 577
Budget request, fiscal year 1992 education 558
Changes needed in ways children are taught 595
Chapter 1 program for the disadvantaged 597
Choice program 559
Committee for Economic Development report 558
Compensation pay for teachers in violent school districts 597
Coordinating HHS and education preschool programs 583
Default rate 592
Early childhood intervention necessary 579

Page
Early health care an integral part of education ... 581
Education and schools, innovation in ... 586
Education:
  Spending as percent of gross national product: 1980 and 1990 ... 596
  Spending by other Federal agencies ... 596
Educational facilities, full utilization of ... 573
Federal:
  Education spending as percent of total ... 594
  Share in national education spending ... 572
First amendment considerations in choice ... 579
Funding alone will not solve education's problems ... 572
Governor's academies for teachers ... 585
  Stipends ... 597
Proposals, choice ... 599
  In 1992 budget ... 578
Government role in school readiness ... 571
Guaranteed student loan management report ... 593
How does America 2000 address the poorest counties? ... 587
Merit schools ... 599
National Endowment for the Humanities: Summer institutes ... 585
National faculty organization ... 583
Need to link:
  Child care with early childhood education ... 590
  Early health services to educational outcome ... 580
New authorizing legislation required ... 559
1992 budget: Percentage breakdown by area of support ... 573
Pell grants ... 558
Preschool programs: Where does primary responsibility lie? ... 582
Programs serving the disadvantaged ... 560
National achievement tests:
  Proposal for new, voluntary ... 576
  Voluntary basis for ... 598
Questions submitted by the subcommittee ... 603
School readiness goal ... 571
Should a drug education program be mandated? ... 578
Star schools program ... 560
Student loan:
  Defaults ... 601
  Option, direct Federal funding of ... 600
  Prevention measures ... 591
Total education spending compared to defense spending ... 595

## SPECIAL INSTITUTIONS

### AMERICAN PRINTING HOUSE FOR THE BLIND

Americans With Disabilities Act ... 163
APH program description ... 141
Budget request ... 141, 159
Early education materials for blind children ... 161
Questions submitted by the subcommittee ... 174

### GALLAUDET UNIVERSITY

Budget request ... 130
Commission on Education of the Deaf ... 130
Excellence, focus on ... 131
Middle States Association ... 131
Programs:
  Endowment ... 132
  Mental health ... 130
  Precollege ... 131
Staffing reductions ... 131
Questions submitted by the subcommittee ... 198

### HOWARD UNIVERSITY

Budget, hospital ... 127

Page

Centers of excellence 145
Compensation levels 152
Construction:
  Costs 146
  Request 150, 151
Cost estimates 145
Foreign students 154
  Tuition surcharge 147
Howard University Commission 143
Howard 2000 plan 144
Infrastructure needs 146
Personnel, reduction of 145
Program:
  Academic 127
  Elimination of 144
  Endowment 127
  Research 127
Questions submitted by the subcommittee 164
Salaries:
  Average faculty 153
  Faculty/staff, increases 153

### NATIONAL TECHNICAL INSTITUTE FOR THE DEAF

Budget request 134, 155
Compensation levels 135
Foreign students 135
International students 158
Repetitive motion injury 135
  NTID 156
  Gallaudet University 156
Questions submitted by the subcommittee 182
Student retention 158

## DEPARTMENT OF LABOR

### OFFICE OF INSPECTOR GENERAL

Built-in increases 106
Introduction of associates 103
Job Training Partnership Act 106
Pension and Welfare Benefits Administration 107
Pension Benefit Guaranty Corporation 108
Questions submitted by the subcommittee 108

### OFFICE OF THE SECRETARY

Black lung backlogs 24
Education and training 29
Emergency supplemental 20
Funding:
  Possible offsets 29
  Proposed administrative changes 19
Insurance:
  Funding level, appropriate unemployment 17
  Staff, reduced State employment 18
Job training, hardcore unemployed 21
JTPA oversight 32
Mine safety 23
New York Port Authority 30
Older Americans:
  Data 29
  Program, funding for 28
Prison, job training programs in 23
Questions submitted by the subcommittee 33
Skills, basic 31
States, lack of modernization in 16

Page

- Unemployment:
  - Funding needs 15
  - Insurance administrative needs 16
  - Insurance contingency funded, percentage of 18

## FEDERAL MEDIATION AND CONCILIATION SERVICE

- Budget request 241
- Labor-management cooperation program 243
- Questions submitted by the subcommittee 244

## FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

- Budget request 349
- Commission vacancy 351

## NATIONAL COMMISSION ON ACQUIRED IMMUNE DEFICIENCY SYNDROME

- Questions submitted by the subcommittee 532
- Testing health care workers 531

## NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

- Bookmobiles 483
- Budget request 465
- Children, importance of reading to 485
- Commission's 20th anniversary 466
- Critical national resource, information as a 466
- Equal opportunity of access 484
- Hearing, joint congressional 482
- Immigrants' appreciation for education and reading 485
- Implementation process, importance of 467
- Library budgets, paucity of 486
- National literacy goals 485
- Questions submitted by the subcommittee 486
- Technology, education through the use of 485
- White House Conference 482
  - Emerging topics from pre- 466
  - On Library and Information Services, 1991 466

## NATIONAL COMMISSION TO PREVENT INFANT MORTALITY

- Infant mortality 381
- Questions submitted by the subcommittee 384

## NATIONAL LABOR RELATIONS BOARD

- Administrative law judges 313
  - Loan program 314
- Board jurisdiction 315
- Board rule, overturning a 311
- Budget request 291
- Cases:
  - Lead 306
  - Oldest 306
- Dubuque packing 307
- Early retirement program 314
- GAO:
  - Report recommendations 313
  - Study 311
- Highlights 291
- Opinion, issuance of 307
- Program to flag old cases 309
- Questions submitted by the subcommittee 329
- Regional directors decisions, effectuating 309
- Self-enforcing board orders 310
- Staff resources 308

Page

## OFFICE OF INSPECTOR GENERAL

Budget request 335
Medicare contract 341
Questions submitted by the subcommittee 342

## NATIONAL MEDIATION BOARD

Airline industry, mergers in 255
Budget request 249
Office move 256
Questions submitted by the subcommittee 257
Railroad national bargaining 256

## OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

Budget request 355
Three member board 357

## PHYSICIAN PAYMENT REVIEW COMMISSION

Budget request 389
Medicare 393
Questions submitted by the subcommittee 395

## PROSPECTIVE PAYMENT ASSESSMENT COMMISSION

Budget request 535
Hospitals:
  Rural 536
  Volume declines 539
Outpatient payment 537
Questions submitted by the subcommittee 540
Rural transition grants 537
Wage index 536

## RAILROAD RETIREMENT BOARD

Appropriation request, fiscal year 1992 263
Backlog cases 263, 278
Budget request 261
Debt collection 264
Fraud control 264
Improvement activities:
  Additional staffing for 279
  Detailed work plan for 280
  Funding for 278, 280
Mainframe computer 262
Management review of the Railroad Retirement Board [RRB] 262
Medicare 281
Program integrity activities 262
Special management improvement fund 263
Tax accounting 265
Trust funds, solvency of the 278
Questions submitted by the subcommittee 281

## U.S. INSTITUTE OF PEACE

Arab world dynamics 502
Arms reduction 501
Budget request 497
Fellowships and grants 502
Funding 504
  Request 498
Latin America emphasis 513
Legal structures 501
Mideast 512
Middle East:
  Peacemaking experience 500

| | Page |
|---|---|
| Special program | 498 |
| National Peace Essay Contest | 504 |
| Questions submitted by the subcommittee | 514 |
| Soviet Union and Eastern Europe | 502 |
| Teaching support | 504 |

U.S. NAVAL HOME

| | |
|---|---|
| Budget request | 361 |
| Independent living and social interaction | 365 |
| Questions submitted by the subcommittee | 367 |

U.S. SOLDIER'S AND AIRMEN'S HOME

| | |
|---|---|
| Budget request | 547 |
| Capital outlay projects | 548 |
| Membership qualifications | 551 |
| Operation and maintenance | 548 |
| Preventive health care efforts | 551 |
| Questions submitted by the subcommittee | 553 |
| U.N. peacekeeping | 500 |
| Videos, educational | 503 |

○

38-710 (740)